

# Transcript of the Testimony of

**Kristine A. DuPont**

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**Date:** May 22, 2017

**Case:** Kristine DuPont v. Active Plumbing Supply Co.

EXHIBIT "B"

**Waters Reporting Services**  
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<p style="text-align: center;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO - EASTERN DIVISION KRISTINE DuPONT, Plaintiff, JUDGE NUGENT -vs- CASE NO. 1:16CV2363 ACTIVE PLUMBING SUPPLY CO., Defendant. - - - -</p> <p>Deposition of KRISTINE A. DuPONT, taken as if upon cross-examination before Lynn A. Konitsky, a Certified Realtime Reporter and Notary Public within and for the State of Ohio, at the offices of Dworken &amp; Bernstein, 1468 West 9th Street, suite 135, Cleveland, Ohio, at 10:05 a.m. on Monday, May 22, 2017, pursuant to notice and/or stipulations of counsel, on behalf of the Defendant in this cause. - - - -</p> <p style="text-align: center;">WATERS REPORTING SERVICES Court Reporters 38385 Wood Road Willoughby, Ohio 44094 (440) 269-198022</p>	<p style="text-align: center;">Page 3</p> <p>1 2 W I T N E S S I N D E X 3 4 CROSS-EXAMINATION KRISTINE A. DuPONT 5 BY MR. SELBY 4 6 7 E X H I B I T I N D E X 8 EXHIBIT MARKED 9 Defendant's Exhibit 1, offer of 18 employment, 5/22/14, 10 Defendant's Exhibit 2, pay document 83 for k.dupont, 11 12 Defendant's Exhibit 3, work schedule 88 for k.dupont, 13 Defendant's Exhibit 4, email, 5/22/15 92 from c.barber to multiple people, 14 15 Defendant's Exhibit 5, email, 5/26/15 94 from c.barber to k.dupont, 16 Defendant's Exhibit 6, email same as 101 exh.5 without k.dupont response, 17 18 Defendant's Exhibit 7, email, 6/8/15 108 from c.barber to showroom, 19 Defendant's Exhibit 8, email, 8/31/15 113 from c.barber to showroom, 20 21 Defendant's Exhibit 9, email, 3/4/16 115 from b.barber to multiple people, 22 23 24 25</p>
<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES: 2 Chastity L. Christy, Esq. The Lazzaro Law Firm, LLC 3 920 Rockefeller Building 614 W. Superior Avenue 4 Cleveland, Ohio 44113 (216) 696-5000, 5 chastity@lazzarolawfirm.com 6 7 On behalf of the Plaintiff; 8 Richard Selby, Esq. Jo A. Tatarko, Esq. 9 Dworken &amp; Bernstein Co., L.P.A. 1468 W. 9th Street 10 Suite 135 Cleveland, Ohio 44113 11 (216) 861-4211, rselby@dworkenlaw.com 12 jtatarko@dworkenlaw.com 13 14 On behalf of the Defendant. 15 ALSO PRESENT: 16 Cynthia Barber 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">Page 4</p> <p>1 KRISTINE A. DuPONT, of lawful age, called 2 by the Defendant for the purpose of 3 cross-examination, as provided by the Rules of 4 Civil Procedure, being by me first duly sworn, as 5 hereinafter certified, deposed and said as 6 follows: 7 CROSS-EXAMINATION OF KRISTINE A. DuPONT 8 BY MR. SELBY: 9 <b>Q. Can you please state your name for the record.</b> 10 A. Kristine A. DuPont. 11 <b>Q. Ms. DuPont, my name is Ric Selby. I'm an</b> 12 <b>attorney for Active Plumbing. The purpose of</b> 13 <b>having you here today is to give me the</b> 14 <b>opportunity to take your deposition in connection</b> 15 <b>with a lawsuit you filed in Federal Court.</b> 16 <b>Before we get started I'm going to go over a</b> 17 <b>few ground rules that hopefully will make things</b> 18 <b>go a little smoothly.</b> 19 <b>The first is, you can see we have a court</b> 20 <b>reporter here transcribing everything, therefore,</b> 21 <b>it's important, when you answer my questions,</b> 22 <b>that you do so verbally as opposed to a head nod</b> 23 <b>or a shrug. And try to avoid things like uhm-hum</b> 24 <b>or huh-huh and stay with yes or no.</b> 25 <b>Sometimes it's easy to fall into during</b></p>

<p style="text-align: right;">Page 5</p> <p>1 normal conversation, so your attorney or I may  2 remind you, but if you could be conscious of  3 that, it's helpful.  4 The second is, I want to make sure that you  5 and I are on the same page. So if you don't  6 understand one of my questions, or you didn't  7 hear it, or you want me to repeat it or rephrase  8 it, just say so.  9 I want to make sure the answers you're giving  10 are to the questions I'm asking, so if you're not  11 sure what I'm asking, please speak up.  12 We can take a break whenever you need, this  13 is not an endurance contest or a marathon.  14 The only thing I would ask though, is that if  15 there's a question pending, that you answer that  16 question before we take a break and then we can  17 take a break for the restroom, just a break,  18 whatever.  19 We have some water over there, if you'd like  20 some coffee, we can have some made.  21 And then finally, is there anything that  22 would interfere with your ability to give a  23 deposition today; an illness, medication,  24 anything that would affect your memory or your  25 ability to give a deposition today?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. It is a CAD program for interior design.  2 Q. And when did you obtain that training?  3 A. I don't recall the exact date. It was -- I'm  4 going to say, close to two years ago.  5 Q. And where did you obtain that training from?  6 A. Pittsburgh, Pennsylvania.  7 Q. And was it a course, an organization; who offered  8 the training?  9 A. Tom Pajewski (sic).  10 Q. And who is Tom Pajewski?  11 A. He's a software writer and consultant for 2020.  12 Q. Is 2020 a company?  13 A. It is the design program itself, the company,  14 yes.  15 Q. Did you obtain this training through employment?  16 In other words, did you have an employer who  17 paid for this training or provided it to you or  18 did you pay for it or do this on your own?  19 A. I paid for it on my own.  20 Q. You said you had three levels. How many levels  21 are there?  22 A. Three.  23 Q. And how long was this training?  24 A. It spanned over the course of years.  25 Q. When did you start taking this training?</p>
<p style="text-align: right;">Page 6</p> <p>1 A. No.  2 Q. Okay. What's your current address?  3 A. 327 Tiffin, T-i-f-f-i-n, Avenue, Huron, Ohio.  4 Q. And how long are you resided there?  5 A. A year-and-a-half.  6 Q. I want to go through a little bit; what's your  7 educational background?  8 A. I have completed high school. I have some  9 college and I have specialized training in areas  10 of my field.  11 Q. Let's talk first about, where did you graduate  12 from high school?  13 A. Edison High School in Milan.  14 Q. And what college do you have?  15 A. I attended Bowling Green and I attended Remington  16 School For Dentistry assisting, many years ago.  17 Q. And did you obtain a degree from either one of  18 those?  19 A. I did not.  20 Q. How long did you go to Bowling Green?  21 A. A year.  22 Q. You said you had some specialized training aside  23 from college. What's that training in?  24 A. I have three levels of 2020 design training.  25 Q. So what is 2020 design training?</p>	<p style="text-align: right;">Page 8</p> <p>1 A. 2000 was my first introduction to 2020.  2 Q. When was the last time you took any training?  3 A. To the best of my recollection, I think that was  4 a couple years ago, what we just spoke about.  5 Q. And so how often was this training and how long  6 would it last when you would do it?  7 A. The training is in accordance with upgrades to  8 the software, so it would go according to keeping  9 up with the software's progress and where your  10 needs could be enhanced.  11 Q. So whenever the software was upgraded, you would  12 get new training on those updates?  13 A. Yes, or I would choose areas of specialty that I  14 wanted to train in within the software's  15 upgrades.  16 Q. So when you did the initial training with the  17 program, how long was that training?  18 A. I don't recall exactly, I know it was several  19 days in a hotel somewhere.  20 Q. When you do the periodic updates, how long would  21 these updates be?  22 A. The answer varies.  23 There are offers of online enhancements or  24 there are offers of going and staying and doing a  25 few days of enhancements; I do the few days.</p>

<p style="text-align: right;">Page 9</p> <p>1 <b>Q. I assume, with some of the online courses, it</b>  2 <b>might be just a couple of hours?</b>  3 A. Yeah.  4 <b>Q. And then if you go and naturally do the training</b>  5 <b>seminars, where you're there in person, those are</b>  6 <b>going to last a couple of days?</b>  7 A. Yes.  8 <b>Q. Fine. Are there any certifications that come</b>  9 <b>with that?</b>  10 A. You get a certificate that you completed that.  11 <b>Q. A certification of completion?</b>  12 A. Correct.  13 <b>Q. Do you have any licenses, professional licenses</b>  14 <b>or anything like that?</b>  15 A. Just certifications.  16 <b>Q. What certifications do you have?</b>  17 A. I attended the Progress Lighting Institute.  18 <b>Q. Any others?</b>  19 A. Not completed.  20 <b>Q. When did you complete the Progress Lighting</b>  21 <b>Institute?</b>  22 A. To the best of my recollection, it was probably  23 ten years ago.  24 <b>Q. And what is the Progress Lighting Institute?</b>  25 A. It is a coursework to educate you completely in</p>	<p style="text-align: right;">Page 11</p> <p>1 <b>out of your home?</b>  2 A. I work out of my home.  3 <b>Q. What type of interior design consulting do you</b>  4 <b>do; residential, commercial, both?</b>  5 A. Residential, hospitality, light commercial, as in  6 office work.  7 <b>Q. What would be considered hospitality?</b>  8 A. Restaurants. Dining rooms, particularly.  9 <b>Q. Okay.</b>  10 A. And exterior designing actually.  11 <b>Q. Are you working anywhere else right now?</b>  12 A. No.  13 <b>Q. How many hours a week are you working as part of</b>  14 <b>Kristine DuPont Designs?</b>  15 A. It varies from the jobs and the workload from  16 week-to-week.  17 <b>Q. Let's try to get the ranges.</b>  18 <b>What would be a slow week, what would be a</b>  19 <b>heavy week and what would be a typical week?</b>  20 A. A slow week would be 30 to 40 hours. A heavy  21 week could be 60 plus.  22 <b>Q. What's typical, closer to the slow week or closer</b>  23 <b>to the heavy week?</b>  24 A. I'd say about 40 to 50 hours would be an average,  25 if you could say there was an average.</p>
<p style="text-align: right;">Page 10</p> <p>1 the areas of lighting design, lighting theory,  2 electrical loads, to be able to design lighting  3 layouts effectively.  4 <b>Q. Who offered this?</b>  5 A. Progress Lighting. It was taught by Joe  6 Rey-Barreau. He's the design professor for the  7 University of Kentucky.  8 <b>Q. And where was this offered?</b>  9 A. I went to Greenville, South Carolina. Possibly  10 North Carolina.  11 <b>Q. One of the Carolinas?</b>  12 A. One of the Carolinas.  13 <b>Q. Fair enough.</b>  14 <b>Let's go through your employment history.</b>  15 <b>Let's start currently and we'll work backwards.</b>  16 <b>Where are you currently employed?</b>  17 A. I work for myself.  18 <b>Q. And does your business have a name?</b>  19 A. Kristine DuPont Designs.  20 <b>Q. Is it set up as an LLC?</b>  21 A. Sole proprietorship.  22 <b>Q. And what type of work does Kristine DuPont</b>  23 <b>Designs do?</b>  24 A. I do interior design consulting.  25 <b>Q. Do you have an office or location, or do you work</b></p>	<p style="text-align: right;">Page 12</p> <p>1 <b>Q. How long have you been doing work with Kristine</b>  2 <b>DuPont Designs?</b>  3 A. Years.  4 <b>Q. How long?</b>  5 A. I've been working as an independent designer or  6 as a designer, I'm going to say, from the late  7 nineties, maybe 2000.  8 <b>Q. And you've been doing that continuously even</b>  9 <b>while you've had some other jobs?</b>  10 A. Oh, yes.  11 <b>Q. When was the last time that you worked anywhere</b>  12 <b>other than just for yourself?</b>  13 A. For Active Plumbing.  14 <b>Q. That was for Active Plumbing?</b>  15 A. Yes.  16 <b>Q. While you were working for Active Plumbing, how</b>  17 <b>many hours a week were you typically working on</b>  18 <b>your own business outside of Active Plumbing?</b>  19 A. During that time I did not do my business  20 full-time.  21 <b>Q. Okay.</b>  22 A. It would be impossible.  23 <b>Q. What was --</b>  24 A. I took on maybe one or two jobs during that time.  25 There were weeks when I didn't do any work for</p>

<p style="text-align: right;">Page 13</p> <p>1 Kristine DuPont Designs. It wasn't my source of  2 income, let's put it that way.  3 <b>Q. But you were still doing it?</b>  4 A. Correct.  5 <b>Q. Did you keep any records during that time that</b>  6 <b>would show the work you were doing or the</b>  7 <b>projects that you were doing during that time?</b>  8 A. I could look back and find them, off the top of  9 my head, I don't recall --  10 <b>Q. Okay.</b>  11 A. -- exact details.  12 <b>Q. With respect to your tax returns, how would</b>  13 <b>income from Kristine DuPont Designs be reflected</b>  14 <b>in your tax returns?</b>  15 A. I take my business income and the income from  16 when I was working with someone, combine it  17 together, take the write-offs against -- if  18 any -- the business and then pay whatever taxes  19 are needed to be paid, if there were any.  20 <b>Q. I understand. Like, did you pay yourself a W-2</b>  21 <b>or would you just have, like, you know, the</b>  22 <b>income statements -- like you didn't pay yourself</b>  23 <b>as an employee, correct?</b>  24 A. No.  25 <b>Q. So there wouldn't be a W-2 statement --</b></p>	<p style="text-align: right;">Page 15</p> <p>1 <b>list of all of the jobs you did for Kristine</b>  2 <b>DuPont Designs during the time that you were</b>  3 <b>working for Active Plumbing, with some</b>  4 <b>description of what that job was, correct?</b>  5 A. Possibly, yes.  6 <b>Q. Did you keep any records or maintain any records</b>  7 <b>with respect to Kristine DuPont Designs that</b>  8 <b>would establish how many hours you were working</b>  9 <b>or what you were doing, any type of records like</b>  10 <b>that?</b>  11 A. Not specifically.  12 <b>Q. Okay. What type of work was Kristine DuPont</b>  13 <b>Designs doing while you were with Active</b>  14 <b>Plumbing?</b>  15 A. Very little.  16 <b>Q. Would it be the same type of things you were</b>  17 <b>doing for Active Plumbing or would it be things</b>  18 <b>that Active Plumbing didn't offer?</b>  19 A. Things that Active Plumbing did not offer.  20 <b>Q. Were you doing those things for customers you</b>  21 <b>found through Active Plumbing, through just</b>  22 <b>totally separate customers or some combination of</b>  23 <b>the two?</b>  24 A. That would be two questions.  25 <b>Q. Let me ask you, did you do work for Active</b></p>
<p style="text-align: right;">Page 14</p> <p>1 A. Correct.  2 <b>Q. -- or anything like that?</b>  3 <b>You would just have, as part of your tax</b>  4 <b>records, you would have the income that was</b>  5 <b>generated and then you would have all your</b>  6 <b>write-offs and then you would also, as a separate</b>  7 <b>matter have, you would have received a W-2 from</b>  8 <b>Active Plumbing?</b>  9 A. Yes.  10 <b>Q. Do you have a recollection of, while you were</b>  11 <b>working for Active Plumbing, what type of income</b>  12 <b>you were generating for yourself from Kristine</b>  13 <b>DuPont Designs?</b>  14 A. Not -- not that I can recall at this minute.  15 <b>Q. Do you keep -- like, when you do a job for</b>  16 <b>Active -- I mean, for Kristine DuPont Designs,</b>  17 <b>would you have a separate file for each job?</b>  18 A. Yes.  19 <b>Q. So you would be able to go back and would you</b>  20 <b>still have those records from the time you were</b>  21 <b>employed at Active Plumbing?</b>  22 A. I can't answer that for sure right now.  23 <b>Q. Okay. You'd have at least some?</b>  24 A. I'm sure I do.  25 <b>Q. So you'd be able to go back and put together a</b></p>	<p style="text-align: right;">Page 16</p> <p>1 <b>Plumbing customers?</b>  2 A. I was approached by an Active Plumbing customer  3 to meet his customer to help with lighting and  4 sizes of logs to build their log cabin.  5 <b>Q. Okay.</b>  6 A. I was approached by that customer to also, on the  7 Active Plumbing part, do all of the plumbing  8 through Active and it was very clear that all of  9 those outside services were not part of their  10 thing and they approached me, to meet their  11 client.  12 <b>Q. Okay. That's fine. What customer was that?</b>  13 A. Jim Wilson was the plumber.  14 <b>Q. And was that just one job?</b>  15 A. Yes.  16 <b>Q. So there was only one occasion where you were</b>  17 <b>doing additional work for Kristine DuPont</b>  18 <b>Designs, through a customer that you were also</b>  19 <b>doing Active Plumbing work for?</b>  20 A. Those did not happen at the same time.  21 <b>Q. Okay. Those were at separate times?</b>  22 A. Correct.  23 <b>Q. So all of the other work you would have done for</b>  24 <b>Kristine DuPont Designs, would have been done</b>  25 <b>with customers completely unrelated to Active</b></p>

<p style="text-align: right;">Page 17</p> <p>1 <b>Plumbing?</b></p> <p>2 A. Absolutely.</p> <p>3 <b>Q. Let's talk about -- we're still going backwards</b></p> <p>4 <b>in your employment history, and I'll occasionally</b></p> <p>5 <b>get sidetracked on matters, but when were you</b></p> <p>6 <b>first employed by Active Plumbing?</b></p> <p>7 A. I believe it was May or June of 2014.</p> <p>8 <b>Q. How did you learn of the opportunity at Active</b></p> <p>9 <b>Plumbing?</b></p> <p>10 A. If I am correct, I believe it was online and I</p> <p>11 was contacted.</p> <p>12 <b>Q. There was an online advertisement?</b></p> <p>13 A. I believe it was online, absolutely, yeah.</p> <p>14 <b>Q. And you would have sent in a resume or somehow</b></p> <p>15 <b>responded to that?</b></p> <p>16 A. I think that's how that came about, I'm not</p> <p>17 exactly sure.</p> <p>18 <b>Q. Do you recall who you would have interviewed</b></p> <p>19 <b>with?</b></p> <p>20 A. Margie Puchalski.</p> <p>21 <b>Q. And anybody else?</b></p> <p>22 A. After the first interview, there were courses of</p> <p>23 people, through the company, that I had to go</p> <p>24 through interviews with.</p> <p>25 <b>Q. Who were all the people that you interviewed</b></p>	<p style="text-align: right;">Page 19</p> <p>1 <b>Q. Take a look at what I have marked as Defendant's</b></p> <p>2 <b>Exhibit 1. This appears to be a May 22nd, 2014</b></p> <p>3 <b>offer of employment. Go ahead and read through</b></p> <p>4 <b>this and let me know when you're done doing it.</b></p> <p>5 <b>Is this the written offer of employment that</b></p> <p>6 <b>you received from Active Plumbing?</b></p> <p>7 A. It appears to be.</p> <p>8 <b>Q. And is that your signature on the second page?</b></p> <p>9 A. Yes, it is.</p> <p>10 <b>Q. So you would have signed and dated this on June</b></p> <p>11 <b>3rd, 2014?</b></p> <p>12 A. Yes, sir.</p> <p>13 <b>Q. Looking through this, does this appear to</b></p> <p>14 <b>properly reflect your, I guess, the terms and</b></p> <p>15 <b>conditions of your employment as you recall them</b></p> <p>16 <b>when you were first hired?</b></p> <p>17 A. It is an outline of the terms and conditions --</p> <p>18 <b>Q. Okay.</b></p> <p>19 A. -- of which I was hired.</p> <p>20 <b>Q. And what's outlined here appears, to you, to</b></p> <p>21 <b>accurately reflect what in fact those terms and</b></p> <p>22 <b>conditions were when you were hired?</b></p> <p>23 A. Accurately?</p> <p>24 <b>Q. Yeah.</b></p> <p>25 A. The base salary, the commission structure is what</p>
<p style="text-align: right;">Page 18</p> <p>1 <b>with?</b></p> <p>2 A. Cindy Barber, I believe. I met many people at a</p> <p>3 table and had an interview.</p> <p>4 <b>Q. I understand. Do you recall any of the other</b></p> <p>5 <b>people who were there?</b></p> <p>6 A. I believe Chuck Rathburn was there. Tracy</p> <p>7 Smearman. I feel like there were more, but I</p> <p>8 don't recall exactly who it was.</p> <p>9 <b>Q. And do you recall who it was, who offered you a</b></p> <p>10 <b>job?</b></p> <p>11 A. There were several people. Verbally, my first</p> <p>12 point of contact, Marjorie offered, yes, the job.</p> <p>13 I received a written offer from the company,</p> <p>14 generated probably as a combination of Tracy</p> <p>15 Smearman and Cindy and the people that were in</p> <p>16 charge of making the offers. I don't know</p> <p>17 exactly who contributed.</p> <p>18 MR. SELBY: Mark this as</p> <p>19 Defendant's Exhibit 1.</p> <p>20 - - - -</p> <p>21 (Thereupon, Defendant's Exhibit 1, offer of</p> <p>22 employment, 5/22/14, was marked for purposes of</p> <p>23 identification.)</p> <p>24 - - - -</p> <p>25 BY MR. SELBY:</p>	<p style="text-align: right;">Page 20</p> <p>1 they set out to follow.</p> <p>2 <b>Q. Right.</b></p> <p>3 A. The structure for the expenses. The benefits, to</p> <p>4 my recollection, are not the same as what came to</p> <p>5 fruition.</p> <p>6 <b>Q. How were they different?</b></p> <p>7 A. I don't recall seeing a life insurance policy</p> <p>8 equal to my annual salary.</p> <p>9 <b>Q. Okay.</b></p> <p>10 A. And when I questioned it, I was told no one had</p> <p>11 that.</p> <p>12 <b>Q. Who did you question regarding that?</b></p> <p>13 A. The branch manager, Greg Taylor, and some other</p> <p>14 employees, I can't recall who, but --</p> <p>15 <b>Q. Okay. Any other differences in the benefits?</b></p> <p>16 A. To my recollection, they seem to be in line. I</p> <p>17 would have to look at the nine paid holidays, but</p> <p>18 other than that, I feel like I'm seeing what was</p> <p>19 the structure, yes.</p> <p>20 <b>Q. Did any of these terms and conditions, as</b></p> <p>21 <b>outlined in this letter, change from the time you</b></p> <p>22 <b>were hired until the end of your employment?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. Which ones changed?</b></p> <p>25 A. The typical work week is 40 hours, occasional</p>



<p style="text-align: right;">Page 21</p> <p>1 overtime is expected but generally does not  2 exceed five hours per week.  3 <b>Q. You're indicating that you worked more than that,  4 or less than that?</b>  5 A. I'm indicating that I worked more than that on  6 many occasions and was told that I was an exempt  7 employee and not entitled to overtime and  8 throughout the course of my employment, it was  9 questioned on many occasions.  10 <b>Q. And who told you that?</b>  11 A. Who told me what?  12 <b>Q. That you were an exempt employee not entitled to  13 overtime?</b>  14 A. I got an e-mail from the head of HR stating that.  15 <b>Q. Who is that?</b>  16 A. I'm sorry, that would be Tracy Smearman.  17 <b>Q. Okay. When was that?</b>  18 A. I can't recall the exact date.  19 <b>Q. Okay.</b>  20 A. It is in the paperwork that was requested by  21 you --  22 <b>Q. Okay.</b>  23 A. -- for evidence.  24 <b>Q. Okay.</b>  25 A. I had questioned, on the phone and verbally with</p>	<p style="text-align: right;">Page 23</p> <p>1 wording; I asked him about it then.  2 The very next day, Cindy Barber came to my  3 branch and said that that was written on there,  4 but that didn't necessarily apply.  5 And then the exempt employee thing came up on  6 so many phone conversations, but I do have  7 e-mails where it came up as well.  8 <b>Q. Who else did you have those -- when you say  9 "exempt employees," I want to back up a little  10 bit.</b>  11 So Bryce gave you something in writing as  12 part of your sales goals, telling you that you  13 would be entitled to time and a half?  14 A. The company produced a yearly sales goal paper.  15 <b>Q. Right.</b>  16 A. That explained what your expectations were, what  17 their goals were for the year. And then it  18 explained, it went into overtime hours will be  19 paid at one-and-a-half and that's when I asked --  20 after I learned that several designers were  21 hourly, because they had issues with overtime  22 when they were considered salary.  23 <b>Q. Okay. So you had been provided that in writing  24 and that is something that Bryce had given you?</b>  25 A. At that point in time, I think it may have come</p>
<p style="text-align: right;">Page 22</p> <p>1 Bryce Barber, over being paid hours that I wasn't  2 being paid for.  3 <b>Q. How many times did you have those conversations  4 with Bryce Barber?</b>  5 A. Three or four, to the best of my recollection,  6 probably more.  7 <b>Q. What did Bryce tell you in response to that?</b>  8 A. There were several responses.  9 On a phone conversation, the response was,  10 Well, everybody should be getting paid what they  11 work. This is when he had just come in to  12 working with the company in his respect of  13 leadership, I'm going to say that, but I'm not  14 sure what his exact title was, but I was to talk  15 to him about things. And then he would check  16 into it.  17 When we got our yearly explanation of our  18 sales goals --  19 <b>Q. Right.</b>  20 A. -- it would explain how we were going to work  21 that, explanation of sales goals, and one stated  22 that overtime hours will be paid at a rate of  23 one-and-a-half --  24 <b>Q. Right.</b>  25 A. Whatever that rate was, I don't recall the exact</p>	<p style="text-align: right;">Page 24</p> <p>1 across through an intercompany mail transfer.  2 <b>Q. Okay.</b>  3 A. But it was created and drafted from the ownership  4 or the powers that make those -- these things.  5 <b>Q. Okay. How far into your employment was that,  6 that you were given that?</b>  7 A. I would think it would have been a year, if I'm  8 correct about that. It was an annual type thing.  9 <b>Q. When you were first employed, when you started --</b>  10 A. Yes.  11 <b>Q. -- were you told whether or not you would be  12 receiving overtime for hours worked in excess of  13 40 hours per week?</b>  14 A. On this offer.  15 <b>Q. Okay.</b>  16 A. It states that overtime --  17 <b>Q. I understand.</b>  18 What was your experience? In other words,  19 when you started, were you being paid overtime  20 for hours worked in excess of 40?  21 A. No.  22 <b>Q. That never happened?</b>  23 A. I did not say that.  24 <b>Q. How long was it before you worked a week in which  25 you worked more than 40 hours per week?</b></p>

<p style="text-align: right;">Page 25</p> <p>1 A. I'm unable to pinpoint that without proper 2 records of the calendars and the appointment 3 calendars held by the company, in their system. 4 <b>Q. An estimate.</b> 5 <b>Did you work one week, one month, one year;</b> 6 <b>how long was it until you worked a period of</b> 7 <b>time, as far as you can recall?</b> 8 A. Within the first month. 9 <b>Q. So during that first month, when you worked more</b> 10 <b>than 40 hours, correct? And you had been told --</b> 11 <b>when you were hired -- that you would be paid for</b> 12 <b>overtime?</b> 13 A. I just went by this, yes. 14 <b>Q. So did you communicate with anybody about how you</b> 15 <b>were going to be paid or whether you would get</b> 16 <b>paid or what, you know, what to do with your</b> 17 <b>overtime, that first time that it happened?</b> 18 A. Marjorie was acting manager for the showrooms -- 19 Marjorie Puchalski -- at that time, and I had 20 several conversation about the hours that I was 21 putting in and not being paid overtime. 22 <b>Q. Okay.</b> 23 A. She left shortly after I started. There were a 24 lot of leadership changes. 25 <b>Q. Let's talk, first, about Marjorie.</b></p>	<p style="text-align: right;">Page 27</p> <p>1 considered okay -- very seldom times. And they 2 were picked as to when I was allowed to submit 3 them. 4 And then I got ahold of HR, after being 5 really upset about not getting paid for all this 6 time, and I got the e-mail back from Tracy that 7 said, I am exempt; according to the laws there is 8 no way for them to track my overtime, for me to 9 be paid by it. 10 <b>Q. I want to back up here.</b> 11 <b>You said there was a form that was eventually</b> 12 <b>given to you to fill out, correct?</b> 13 A. Yes. 14 <b>Q. Who gave you that form?</b> 15 A. A designer that came to work at my branch, 16 Kelsey. 17 <b>Q. What's Kelsey's last name?</b> 18 A. Sizemore. Showed me an overtime form that was on 19 a shared drive. 20 <b>Q. How long into your employment was this?</b> 21 A. I honestly can't tell you. 22 <b>Q. First month, first year?</b> 23 A. Not the first month. I can't give you a correct 24 answer at this time. 25 <b>Q. So you don't know when that happened, but at some</b></p>
<p style="text-align: right;">Page 26</p> <p>1 <b>So within the first month you're there, you</b> 2 <b>have a week where you work more than 40 hours per</b> 3 <b>week, correct?</b> 4 <b>You go to Marjorie. Did you ask her, What am</b> 5 <b>I supposed to do with these overtime hours? What</b> 6 <b>was the substance of that communication?</b> 7 A. The substance was that it's a battle to get paid 8 overtime. 9 I can't tell you specific words that were 10 used, however, there was an ongoing dispute about 11 hours I was working and getting paid for them. 12 <b>Q. Did she describe to you a process of how you were</b> 13 <b>supposed to submit those hours?</b> 14 A. I don't recall. I really don't. 15 <b>Q. Was there a process by which you could submit</b> 16 <b>hours at Active Plumbing to have them considered</b> 17 <b>for overtime?</b> 18 A. Yes. Eventually I was shown a way to submit 19 hours for overtime. 20 <b>Q. What was that way of how you were supposed to do</b> 21 <b>that?</b> 22 A. They had a form that they had a person fill out. 23 It was very vague. I was told -- how can I word 24 this right? 25 There were times when overtime would be</p>	<p style="text-align: right;">Page 28</p> <p>1 <b>point, you had that form, correct?</b> 2 <b>Is that a "yes"?</b> 3 A. Yes. It was not a form that I was allowed to use 4 every week to report with. 5 <b>Q. I'll get to that.</b> 6 <b>Prior to this form, was there any way to turn</b> 7 <b>in or submit overtime hours?</b> 8 A. Not that I was given, no. 9 <b>Q. Would you report them verbally?</b> 10 A. Yes. 11 <b>Q. Who would you report them to?</b> 12 A. I spoke to Marjorie Puchalski who was the manager 13 at the time. I spoke with Brenda Schultz, who 14 was the manager after Marjorie Puchalski. I 15 communicated to Greg Taylor, who was the branch 16 manager. 17 <b>Q. Anybody else?</b> 18 A. Kelsey Sizemore. I communicated with her about 19 overtime that wasn't paid. 20 <b>Q. Anybody else?</b> 21 A. Quinton Patrick, I spoke with him about overtime 22 I was working and not getting paid. 23 <b>Q. Who was Quinton Patrick?</b> 24 A. He's another person that worked at the Avon 25 branch that I worked at.</p>



<p style="text-align: right;">Page 29</p> <p>1 <b>Q. Anybody else?</b>  2 A. Obviously I communicated with Tracy Smearman,  3 Bryce Barber, Cindy Barber, and possibly others  4 that I don't recall at this moment.  5 <b>Q. Nobody else you can recall?</b>  6 A. Not specifically at this very second.  7 <b>Q. What would you have communicated with Marjorie</b>  8 <b>Puchalski regarding overtime?</b>  9 A. Statements would be made like, I can't believe I  10 can't get paid for the hours that I'm working.  11 <b>Q. Okay. Let me stop you.</b>  12 <b>Were you keeping track of how many hours you</b>  13 <b>were working?</b>  14 A. The company calendar for appointments shows  15 off-hour appointments.  16 <b>Q. And were you then submitting to Marjorie</b>  17 <b>Puchalski, "I worked X number of hours over 40</b>  18 <b>hours, I would like to be paid for those"?</b>  19 A. I would have conversations to that exact point  20 and I would get responses like, I don't know,  21 they're not going to do it. She couldn't do  22 anything about it basically.  23 <b>Q. So --</b>  24 A. Go ahead.  25 <b>Q. Were these -- and I guess, I'm trying to</b></p>	<p style="text-align: right;">Page 31</p> <p>1 <b>Q. -- all of your requests for specific amounts of</b>  2 <b>overtime were verbal to her?</b>  3 A. Yes.  4 <b>Q. With respect to Brenda Schultz, all of your</b>  5 <b>requests for a specific amount of overtime were</b>  6 <b>verbal to her?</b>  7 A. Yes.  8 <b>Q. And with respect to Greg Taylor, all your</b>  9 <b>requests for a specific amount of overtime would</b>  10 <b>have been verbal to him?</b>  11 A. No.  12 <b>Q. You would have submitted written overtime</b>  13 <b>requests to Greg Taylor?</b>  14 A. No.  15 <b>Q. You would not have submitted any overtime</b>  16 <b>requests to Greg Taylor?</b>  17 A. Yes.  18 <b>Q. So you never submitted any overtime requests to</b>  19 <b>Greg Taylor?</b>  20 A. He was not in a position to be in that role for  21 me to have requested overtime.  22 <b>Q. So would the people that you would have requested</b>  23 <b>the overtime from, been your immediate</b>  24 <b>supervisors, Marge Puchalski and Brenda Schultz?</b>  25 A. At those time periods, yes.</p>
<p style="text-align: right;">Page 30</p> <p>1 understand.  2 <b>So you'd have these hours. Would you tell</b>  3 <b>Marjorie, I worked these hours and then Marjorie</b>  4 <b>would say, No, the company's not paying them?</b>  5 <b>You say, I couldn't get paid for these</b>  6 <b>overtime hours I'm working. I'm trying to</b>  7 <b>understand how you communicated, to the company,</b>  8 <b>the overtime hours that you were working.</b>  9 A. I spoke with Marjorie Puchalski about it, Brenda  10 Schultz, Greg, Quinton, several others, because  11 it was consistent and was told that's just how  12 the company is --  13 <b>Q. Okay.</b>  14 A. -- and that it would be basically rattling some  15 cages.  16 <b>Q. So all of these hours were verbal? All of these</b>  17 <b>requests, for overtime hours, were verbal?</b>  18 A. Then I sent an e-mail to HR to verify that.  19 <b>Q. I'm trying to do this systematically.</b>  20 A. Correct.  21 <b>Q. So it's helpful if you could just respond to the</b>  22 <b>questions I'm asking.</b>  23 A. Okay.  24 <b>Q. So with Marjorie Puchalski --</b>  25 A. Yes.</p>	<p style="text-align: right;">Page 32</p> <p>1 <b>Q. When you say, "at those time periods," what time</b>  2 <b>periods are you talking about?</b>  3 A. During the course of their employment.  4 <b>Q. Marge was your first immediate supervisor,</b>  5 <b>correct?</b>  6 A. Yes.  7 <b>Q. And then Brenda would have been your second?</b>  8 A. Yes.  9 <b>Q. Who was your immediate supervisor after Brenda</b>  10 <b>left?</b>  11 A. It changed so often, it could possibly have been  12 Cindy or Bryce or Greg.  13 <b>Q. And when Brenda or Marjorie weren't there and you</b>  14 <b>had specific overtime hours, who did you</b>  15 <b>communicate the request for those hours to?</b>  16 A. I had several conversations of complaint with  17 Tracy and got the e-mail back saying that I was  18 exempt and there was no way to report that.  19 <b>Q. So I want to understand this.</b>  20 <b>Your communications with Tracy, were never</b>  21 <b>Here are my hours, I'd like to get paid; they</b>  22 <b>were more, I've been trying to get overtime hours</b>  23 <b>from my managers, why can't I get these paid? Or</b>  24 <b>were there times that you were submitting the</b>  25 <b>hours that you were requesting directly to Tracy?</b></p>

<p style="text-align: right;">Page 33</p> <p>1 A. My questions to Tracy were geared towards why 2 can't I get paid overtime. 3 <b>Q. She was not one of the people you were</b> 4 <b>specifically submitting overtime hours to?</b> 5 A. I can't answer that question. 6 <b>Q. Okay.</b> 7 A. I don't know who reviews the forms and they get 8 submitted to. 9 <b>Q. But with respect to Marjorie and Brenda, you</b> 10 <b>identified conversations where you specifically</b> 11 <b>said, I have worked these overtime hours, I would</b> 12 <b>like to get paid for them, correct?</b> 13 A. Yes. 14 <b>Q. Did you ever have that conversation with Tracy</b> 15 <b>where you were submitting specific hours to her;</b> 16 <b>I worked these hours, I'd like to get paid for</b> 17 <b>them?</b> 18 A. We did discuss the amount of hours I had been 19 working. 20 <b>Q. Okay.</b> 21 A. She responded back by saying, no one disputes all 22 the hours that you worked, but it is not -- you 23 are salary exempted, there's FLSA laws -- this 24 may not be a correct quoting --and there's no way 25 to keep track of your hours and --</p>	<p style="text-align: right;">Page 35</p> <p>1 <b>communicate that to the company, correct?</b> 2 A. What I would do is post -- no. 3 To answer your question; there was a 4 calendar. We would post the appointments on it, 5 that we had, so everybody knew where we were. 6 So, perhaps, if the store closed at five, 7 because I had to man the store, I was the only 8 designer in there, and try to keep appointments 9 as well; so let's say I had a 5:30 in Elyria, 10 that would be on the calendar, it would last 11 however long it lasted, and then I would go. 12 <b>Q. Well, would you put that in the calendar before</b> 13 <b>you went or after you went?</b> 14 A. I would put it in the calendar before. You 15 booked appointments before you would go to them. 16 <b>Q. So before you went, you wouldn't know whether you</b> 17 <b>were going to be there a half an hour or three</b> 18 <b>hours?</b> 19 A. Correct. 20 <b>Q. So was there a process by which, if I was only</b> 21 <b>there a half hour, I would report I was there</b> 22 <b>only a half hour; if I was there three hours, I</b> 23 <b>was there three hours?</b> 24 A. I would go back to the company calendar, to just 25 keep track of what I was doing, and if I got done</p>
<p style="text-align: right;">Page 34</p> <p>1 <b>Q. You worked off-site a lot, correct?</b> 2 A. Part of my job description was to measure and to 3 go to jobs to help recommend things for clients. 4 <b>Q. Right. So they would be at the location,</b> 5 <b>correct?</b> 6 A. Correct. 7 <b>Q. And so not all of your hours were in the</b> 8 <b>showroom, correct?</b> 9 A. Correct. 10 <b>Q. So when you worked hours outside of the showroom,</b> 11 <b>there would have to be some way for you to</b> 12 <b>communicate those to the company, in order for</b> 13 <b>the company to know what those hours were,</b> 14 <b>correct?</b> 15 A. There was a company calendar that everyone kept 16 their appointments on. 17 <b>Q. Okay.</b> 18 A. As far as time recordkeeping, some people got to 19 punch in and out, some people did not. I did 20 not. 21 <b>Q. But that's not what I asked you.</b> 22 A. Then I don't understand your question. 23 <b>Q. When you were out at a location, and for the</b> 24 <b>company to know whether you were there for half</b> 25 <b>an hour or three hours; you would have to</b></p>	<p style="text-align: right;">Page 36</p> <p>1 at 8:30, let's say, I would go and make it the 2 ending time of that appointment at 8:30. 3 <b>Q. Okay.</b> 4 A. Because there is no way to know, when you go out, 5 how long you will be there, that's correct. 6 <b>Q. What was the company calendar? Was there a name</b> 7 <b>of the software program?</b> 8 A. I don't recall what the exact name of it is. 9 It's a shared calendar throughout the entire 10 company. 11 <b>Q. That would show everybody's appointments?</b> 12 A. Correct. 13 <b>Q. You indicated there was a form that you could</b> 14 <b>fill out. But you said you weren't allowed to</b> 15 <b>use that form?</b> 16 A. When I complained more about my hours, my work 17 environment got less comfortable. So I was told 18 that I was exempt and not to report hours and 19 then I was told some hours would be paid as 20 bonus. It changed constantly. 21 <b>Q. Who told you that some hours would be paid as a</b> 22 <b>bonus?</b> 23 A. Cindy Barber. 24 <b>Q. Now, I didn't ask you any of those things.</b> 25 <b>You said there was a form, that you said you</b></p>

<p style="text-align: right;">Page 37</p> <p>1 were not allowed to fill out. Do you recall</p> <p>2 saying that?</p> <p>3 A. Yes.</p> <p>4 Q. Who told you, you weren't allowed to submit that</p> <p>5 form?</p> <p>6 A. I was told there's no way to keep track of the</p> <p>7 hours and that I was exempt, by Tracy.</p> <p>8 Q. Okay. Again, you've said that.</p> <p>9 But with respect --</p> <p>10 A. I was told we don't pay overtime, so --</p> <p>11 Q. But you said you were told you were not allowed</p> <p>12 to turn in that form.</p> <p>13 Was there a time that you tried to give that</p> <p>14 form to somebody and somebody said, No, we won't</p> <p>15 accept that?</p> <p>16 A. No.</p> <p>17 Q. So you took, from Tracy Smearman's comments, that</p> <p>18 you weren't allowed to turn those forms in?</p> <p>19 A. And from a visit from Cindy Barber that said,</p> <p>20 even though the paperwork for the structure of</p> <p>21 2015 says you will be paid overtime, that is not</p> <p>22 necessarily applicable.</p> <p>23 Q. So you said this was, this conversation with</p> <p>24 Cindy is in relation, you got some written</p> <p>25 document from the company that spelled out sort</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yes.</p> <p>2 Q. When was the first time you had talked to Cindy</p> <p>3 about overtime?</p> <p>4 A. To the best of my recollection, it was early on</p> <p>5 when I had started questioning why I wasn't</p> <p>6 eligible for overtime and I believe I spoke to</p> <p>7 her after a conversation with Tracy on the phone.</p> <p>8 I believe that I had gotten a call from Cindy</p> <p>9 subsequently to that. I cannot recall the exact</p> <p>10 time and date, but that is the order of those</p> <p>11 phone conversations.</p> <p>12 Q. What did you and Cindy discuss on that occasion</p> <p>13 on that phone conference?</p> <p>14 A. Overtime hours and the company's policy.</p> <p>15 Q. And what did Cindy tell you was the company's</p> <p>16 policy?</p> <p>17 A. That we were exempt and that they were not</p> <p>18 eligible, I was not an eligible overtime</p> <p>19 employee.</p> <p>20 Q. Were you ever paid any overtime hours during the</p> <p>21 time that you worked there?</p> <p>22 A. There were times I was paid overtime hours, but I</p> <p>23 was told it was paid to me as a bonus for extra</p> <p>24 work. It wasn't necessarily tracked overtime</p> <p>25 hours, nor does that show up anywhere on my</p>
<p style="text-align: right;">Page 38</p> <p>1 of the compensation commission schedules and</p> <p>2 goals and it said in there that you'll receive</p> <p>3 time and a half for all hours worked in excess of</p> <p>4 40, correct?</p> <p>5 A. Uhm-hum.</p> <p>6 Q. And you believe that was approximately a year</p> <p>7 into your employment?</p> <p>8 A. To the best of my knowledge, it was the</p> <p>9 compensation goal setting paperwork for 2015.</p> <p>10 Q. And the next day after you got that, Cindy came</p> <p>11 to your location and said, No, that's not true,</p> <p>12 you won't necessarily get paid for all of those</p> <p>13 hours?</p> <p>14 A. Yes.</p> <p>15 Q. Did she describe to you when or how they would</p> <p>16 determine what hours you were to be paid for?</p> <p>17 A. No.</p> <p>18 Q. Did you ask that?</p> <p>19 A. No. The situation was very awkward and</p> <p>20 uncomfortable and I knew to drop it.</p> <p>21 Q. So you didn't ask any follow-up questions or ask</p> <p>22 that?</p> <p>23 A. I had been asking for over a year, so.</p> <p>24 Q. Had you had any prior communications with Cindy</p> <p>25 prior to this time, when she came in?</p>	<p style="text-align: right;">Page 40</p> <p>1 paycheck.</p> <p>2 Q. Who told you that?</p> <p>3 A. Cindy.</p> <p>4 Q. When did she tell you that?</p> <p>5 A. I can't honestly say what conversation, there</p> <p>6 were many.</p> <p>7 Q. How many times did Cindy tell you that you</p> <p>8 weren't entitled to overtime, but that it would</p> <p>9 occasionally be given to you as a bonus?</p> <p>10 A. I'm going to say in excess of four.</p> <p>11 Q. The first time, would that have been the time you</p> <p>12 had identified after you had the communication</p> <p>13 with Tracy?</p> <p>14 A. Possibly. I can't recall exactly at this time.</p> <p>15 Q. Would all of these have been in person or over</p> <p>16 the phone?</p> <p>17 A. One was in person, that I can recall</p> <p>18 specifically. I'm going to say it's possible the</p> <p>19 other three were on the phone verbally.</p> <p>20 Q. Okay. The one in person, where did that happen</p> <p>21 at?</p> <p>22 A. At my desk in the Avon branch.</p> <p>23 Q. And was that the time that she came out to the</p> <p>24 store, after you had received that memo that we</p> <p>25 had talked about earlier?</p>

<p style="text-align: right;">Page 41</p> <p>1 A. Yes.</p> <p>2 <b>Q. Was anybody else present?</b></p> <p>3 A. Bryce Barber.</p> <p>4 <b>Q. Anybody besides Bryce and Cindy?</b></p> <p>5 A. To the best of my recollection, no.</p> <p>6 <b>Q. When are the other occasions that you can recall</b></p> <p>7 <b>discussing this with Cindy?</b></p> <p>8 A. There were phone conversations, I honestly can't</p> <p>9 give you exact dates as to when those happened,</p> <p>10 it was over the course of my employment.</p> <p>11 <b>Q. Was there anything else or different communicated</b></p> <p>12 <b>during those, any of those conversations, than</b></p> <p>13 <b>what you've described to this point?</b></p> <p>14 A. Could you please clarify that?</p> <p>15 <b>Q. Yeah.</b></p> <p>16 I mean, you've indicated that Cindy told you</p> <p>17 that you were exempt, that you weren't entitled</p> <p>18 to it, that it would occasionally be given to you</p> <p>19 as a bonus, correct?</p> <p>20 A. Yes.</p> <p>21 <b>Q. During any of those other conversations, you</b></p> <p>22 <b>know, you can't recall the exact date, was there</b></p> <p>23 <b>anything in addition to those things or different</b></p> <p>24 <b>from those things that she told you about</b></p> <p>25 <b>overtime or was that the consistent message that</b></p>	<p style="text-align: right;">Page 43</p> <p>1 and I did not understand the inconsistency.</p> <p>2 <b>Q. Did you ever ask anybody to explain why some</b></p> <p>3 <b>people were hourly and some people were salaried?</b></p> <p>4 A. I asked Greg Taylor.</p> <p>5 <b>Q. Did you ever ask -- what was Greg's response?</b></p> <p>6 A. He said he couldn't answer. He did not know why.</p> <p>7 <b>Q. Did you ever ask Cindy Barber to be changed to</b></p> <p>8 <b>hourly?</b></p> <p>9 A. I did not.</p> <p>10 <b>Q. Did you ever ask Bryce Barber to be changed to</b></p> <p>11 <b>hourly?</b></p> <p>12 A. I had mentioned that I did not understand why</p> <p>13 some were hourly and why some were salary.</p> <p>14 <b>Q. To Bryce?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. And what was Bryce's response?</b></p> <p>17 A. He usually would talk to Cindy and get back.</p> <p>18 <b>Q. And did he ever get back to you with an</b></p> <p>19 <b>explanation?</b></p> <p>20 A. I don't recall. I do not think he did.</p> <p>21 <b>Q. Did you ever ask Marjorie Puchalski why some</b></p> <p>22 <b>people were hourly and some were salaried,</b></p> <p>23 <b>exempt?</b></p> <p>24 A. At that time, I was not aware of that being a</p> <p>25 policy. As my complaints kind of spread through</p>
<p style="text-align: right;">Page 42</p> <p>1 you heard in all --</p> <p>2 A. That was the consistent message.</p> <p>3 <b>Q. Okay. You also indicated that you spoke to Greg</b></p> <p>4 <b>Taylor about overtime. When would you have</b></p> <p>5 <b>spoken to him?</b></p> <p>6 A. During the course of my employment, regularly.</p> <p>7 We all worked in the same building together.</p> <p>8 <b>Q. And what would Greg have told you regarding</b></p> <p>9 <b>overtime hours?</b></p> <p>10 A. Greg's comments were, I don't know, it's an</p> <p>11 ongoing complaint; some designers are salaried,</p> <p>12 some get changed to hourly. There's nothing I</p> <p>13 can do about it; I know.</p> <p>14 That's pretty much close to being an exact</p> <p>15 quote.</p> <p>16 <b>Q. What was his position?</b></p> <p>17 A. Manager of the branch.</p> <p>18 <b>Q. With respect to Kelsey Sizemore, what was her</b></p> <p>19 <b>position?</b></p> <p>20 A. Designer.</p> <p>21 <b>Q. What discussions did you have with her?</b></p> <p>22 A. Conversations related to the hours that I was</p> <p>23 working and being salary and, you know, the fact</p> <p>24 that she was hourly because of that. And some</p> <p>25 people got changed to hourly, some were salary</p>	<p style="text-align: right;">Page 44</p> <p>1 amongst staff members, then I was made aware --</p> <p>2 from staff members -- that some designers had had</p> <p>3 that problem and been changed to hourly and some</p> <p>4 weren't.</p> <p>5 <b>Q. How about Brenda Schultz?</b></p> <p>6 A. Brenda Schultz, I was not aware of the policy</p> <p>7 that some designers were paid differently than</p> <p>8 others.</p> <p>9 <b>Q. Did you ever ask Tracy Smearman why some were</b></p> <p>10 <b>salaried exempt and some were hourly?</b></p> <p>11 A. This was not my knowledge during Tracy's</p> <p>12 employment, it was after she left the company.</p> <p>13 <b>Q. What communications did you have with Quinton?</b></p> <p>14 <b>And what was Quinton's last name?</b></p> <p>15 A. Patrick.</p> <p>16 <b>Q. Patrick. I can't read my own handwriting.</b></p> <p>17 <b>What communications did you have with Quinton</b></p> <p>18 <b>Patrick regarding overtime?</b></p> <p>19 A. General comradery employee conversations, similar</p> <p>20 to Kelsey. I did not understand the</p> <p>21 inconsistency and the whole process of deciding</p> <p>22 when and if someone got paid overtime.</p> <p>23 <b>Q. You indicated, you had referred back to that form</b></p> <p>24 <b>that you had identified.</b></p> <p>25 <b>Were there ever occasions where you filled</b></p>

<p style="text-align: right;">Page 45</p> <p>1 <b>out the form and submitted it, where you were not</b>  2 <b>paid overtime?</b>  3 A. I can't answer that without reviewing all the  4 forms and my paychecks.  5 <b>Q. How did you determine when you were going to fill</b>  6 <b>out a form and submit it and when you were not?</b>  7 A. At one point closer to the end of my employment,  8 I was told it was okay to start submitting  9 overtime requests.  10 <b>Q. Who told you that?</b>  11 A. I can't recall exactly who. It was none of the  12 people in my branch, it was someone from the main  13 branch.  14 <b>Q. So from that time forward, did you submit</b>  15 <b>overtime requests when you worked them?</b>  16 A. I did, when I was able to.  17 <b>Q. When you say "you were able to," what would have</b>  18 <b>kept you from doing it?</b>  19 A. At one point, our payroll changed days and my  20 schedule was Tuesday through Saturday.  21 <b>Q. Right.</b>  22 A. And the payroll -- to the best of my  23 recollection, we had to have everything turned in  24 by the end of the day Monday. The payroll ran  25 through that Saturday though, so if I had a</p>	<p style="text-align: right;">Page 47</p> <p>1 A. I lived 40 minutes away from work and I did not  2 have the ability to remotely turn in my hours or  3 to get into the notes that I would need to --  4 that I kept on the computer -- to turn in the  5 hours, unless, of course, if I drove up on  6 Monday, when I was off, I suppose, yes, I could  7 have done it.  8 <b>Q. Did you ever talk to anybody and say, Look, this</b>  9 <b>is tough for me to do because I'm off on Mondays,</b>  10 <b>to try to work out a different system?</b>  11 A. Yes.  12 <b>Q. Who did you talk to about that?</b>  13 A. I talked to Bryce about it. I talked to Brenda  14 Schultz about it.  15 <b>Q. And what did they tell you?</b>  16 A. The cutoff is the cutoff.  17 <b>Q. So this would only relate to, if you had an</b>  18 <b>appointment after you left the office on</b>  19 <b>Saturday, correct? And it had to be in by</b>  20 <b>Monday?</b>  21 A. Not at all times, but mainly, yes.  22 <b>Q. Did you turn in these sheets every two weeks,</b>  23 <b>every week?</b>  24 A. I can't recall. It could have been every two  25 weeks.</p>
<p style="text-align: right;">Page 46</p> <p>1 Saturday appointment after 1:00, that would have  2 been part of that week's hours.  3 And then another time we got an e-mail saying  4 that we had to turn in our hours -- within the  5 hour -- to so and so to calculate payroll because  6 he was going on vacation or something.  7 I wasn't in the office then and didn't get  8 the opportunity to turn in the stuff so I just  9 didn't make a big stink because I didn't want to  10 have bad times at work.  11 <b>Q. Your schedule was you were off on Mondays,</b>  12 <b>correct?</b>  13 A. Yes.  14 <b>Q. So if you didn't get to it by Monday, you just</b>  15 <b>wouldn't turn it in?</b>  16 A. Correct.  17 <b>Q. Nobody ever told you, you weren't allowed to, you</b>  18 <b>just did that because you didn't want to rock the</b>  19 <b>boat?</b>  20 A. I was advised not to -- if I hadn't turned in the  21 hours for the week on time, then what I got paid,  22 I got paid.  23 <b>Q. Who advised you of that?</b>  24 A. Bryce.  25 <b>Q. Why wouldn't you turn in the hours on time?</b></p>	<p style="text-align: right;">Page 48</p> <p>1 <b>Q. But if you, for example, had worked the overtime</b>  2 <b>on a Wednesday, the Wednesday the week before</b>  3 <b>they were due, there would have been nothing</b>  4 <b>preventing you from having all of that time done</b>  5 <b>and submitted by the time you left the office on</b>  6 <b>Saturday, correct?</b>  7 A. I can't recall if it was weekly or every two  8 weeks. The pay period ran Monday through  9 Saturday.  10 <b>Q. Regardless.</b>  11 <b>And your schedule, you worked Tuesday through</b>  12 <b>Saturday, correct?</b>  13 A. Yes.  14 <b>Q. So if the time reports were due by Monday, you</b>  15 <b>would have to submit them by the time you left</b>  16 <b>the office on Saturday?</b>  17 A. That's correct.  18 <b>Q. So any overtime you would have worked, prior to</b>  19 <b>that Saturday, you would have been able to fill</b>  20 <b>out a form and complete it and submit it by the</b>  21 <b>end of the day Saturday, correct?</b>  22 A. You fill out the form at the end of the week and  23 you sent it over Monday.  24 <b>Q. You could have sent it Saturday?</b>  25 A. Saturday's part of that pay period that I have to</p>



<p style="text-align: right;">Page 49</p> <p>1 report.</p> <p>2 <b>Q. I understand.</b></p> <p>3 <b>But at the end of the day you're leaving,</b></p> <p>4 <b>correct?</b></p> <p>5 A. Not necessarily, no.</p> <p>6 <b>Q. You might be going to another job?</b></p> <p>7 A. Or if someone came in and the showroom stayed</p> <p>8 open later.</p> <p>9 <b>Q. But at some point your day ends, correct?</b></p> <p>10 A. Correct.</p> <p>11 <b>Q. At the end of that day, when you're leaving, you</b></p> <p>12 <b>could have submitted that time form, correct?</b></p> <p>13 A. Not necessarily --</p> <p>14 <b>Q. Why not?</b></p> <p>15 A. -- no.</p> <p>16 There were times when the computers were</p> <p>17 being maintained and being shut down, at certain</p> <p>18 times during the weekends, to be updated.</p> <p>19 <b>Q. How many times did that happen?</b></p> <p>20 A. Over the course of a year? More than once or</p> <p>21 twice, I can't say exactly how many.</p> <p>22 <b>Q. Did you leave the handwritten form for whoever</b></p> <p>23 <b>was working Monday, with a note, Please make sure</b></p> <p>24 <b>this gets turned in?</b></p> <p>25 A. No. There wasn't anyone to hand it off to to do</p>	<p style="text-align: right;">Page 51</p> <p>1 <b>fact that the computer system was down, wouldn't</b></p> <p>2 <b>have, in any way, inhibited your ability to turn</b></p> <p>3 <b>those in?</b></p> <p>4 A. If they were in the interoffice mail, by theory,</p> <p>5 yes, you're correct.</p> <p>6 <b>Q. On the occasions that -- if they were done by</b></p> <p>7 <b>e-mail -- on the occasions the e-mail system</b></p> <p>8 <b>might have been down, did anybody tell you, you</b></p> <p>9 <b>know, you can just leave these with somebody,</b></p> <p>10 <b>make sure they get in?</b></p> <p>11 A. No, I was never told that.</p> <p>12 <b>Q. Did you ever tell anybody, I wasn't able to get</b></p> <p>13 <b>my time sheet in because the computer system was</b></p> <p>14 <b>down?</b></p> <p>15 A. I said I was unable to report my time on a couple</p> <p>16 of occasions, yes.</p> <p>17 <b>Q. Who did you tell that to?</b></p> <p>18 A. I mentioned it to Greg Taylor, Kelsey Sizemore</p> <p>19 and Quinton Patrick.</p> <p>20 <b>Q. None of those people were responsible for</b></p> <p>21 <b>actually paying you?</b></p> <p>22 A. Correct.</p> <p>23 <b>Q. Okay. Did you communicate that you had not been</b></p> <p>24 <b>able to turn your form in, because the computer</b></p> <p>25 <b>was down, to anybody who was actually responsible</b></p>
<p style="text-align: right;">Page 50</p> <p>1 that. I was the single person in the showroom.</p> <p>2 <b>Q. Nobody worked on Monday, the showroom was closed?</b></p> <p>3 A. Someone would work on Monday, yes. I was not</p> <p>4 instructed to give it to anyone.</p> <p>5 <b>Q. Who worked on Monday? Did you ever offer to do</b></p> <p>6 <b>that?</b></p> <p>7 A. No, I did not.</p> <p>8 <b>Q. Did anybody tell you you weren't allowed to do</b></p> <p>9 <b>that?</b></p> <p>10 A. I was never told that was a process.</p> <p>11 <b>Q. Okay. Were you ever told you were not allowed to</b></p> <p>12 <b>do that?</b></p> <p>13 A. Are you asking was I told I was not allowed to</p> <p>14 hand off a form to another person?</p> <p>15 <b>Q. Well, if, for example -- you say these were</b></p> <p>16 <b>e-mailed in, correct? How did you deliver these?</b></p> <p>17 <b>I'm assuming they were e-mailed because you</b></p> <p>18 <b>said sometimes there was a problem because the</b></p> <p>19 <b>computer system was down.</b></p> <p>20 A. I can't recall if we scanned them in or if we</p> <p>21 wrote hand things. Or if they went over in the</p> <p>22 intercompany mail memo that got carted back and</p> <p>23 forth. I can't tell you exactly how they went</p> <p>24 from point A and point B.</p> <p>25 <b>Q. So if they were in the interoffice mail, then the</b></p>	<p style="text-align: right;">Page 52</p> <p>1 <b>for paying those hours?</b></p> <p>2 A. During conversations about reporting hours,</p> <p>3 whether I was allowed or not allowed or that type</p> <p>4 of conversation, at one point I mentioned the</p> <p>5 Monday cutoff for the forms being in, and I think</p> <p>6 one of the backlash responses was, Then we'll</p> <p>7 change your schedule so you'll work Monday</p> <p>8 through Friday and then work Saturday overtime</p> <p>9 every week, nine to one; instead of my schedule,</p> <p>10 which was 40 hours consisting of Tuesday through</p> <p>11 Saturday, being off Sunday to Monday, which I was</p> <p>12 hired under.</p> <p>13 <b>Q. And that's the schedule you requested?</b></p> <p>14 A. That was the agreement upon my hiring.</p> <p>15 <b>Q. But was that a request that you had made?</b></p> <p>16 A. That was the agreement I got hired under.</p> <p>17 <b>Q. I understand they agreed to it.</b></p> <p>18 <b>My question is: Did they come to you and say</b></p> <p>19 <b>this is the schedule we want you to work or was</b></p> <p>20 <b>that the schedule that you had requested?</b></p> <p>21 A. They came to me with the hours available for the</p> <p>22 Avon showroom and I said to them I am willing to</p> <p>23 work this schedule.</p> <p>24 <b>Q. So you were the one who wanted to work the</b></p> <p>25 <b>Tuesday through Saturday, with Monday off?</b></p>



<p style="text-align: right;">Page 53</p> <p>1 A. Without knowledge of how it would affect payroll, 2 yes.</p> <p>3 <b>Q. So going back to the issue. By the time Saturday</b> 4 <b>got there, the payroll had to be turned in on</b> 5 <b>Mondays. You knew by Saturday if you had worked</b> 6 <b>extra hours on any of those days in the payroll</b> 7 <b>period before that, correct?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. And you could have made sure that you turned in</b> 10 <b>all of those hours on Saturday?</b></p> <p>11 A. Not necessarily, no.</p> <p>12 <b>Q. Why not?</b></p> <p>13 A. There were days I worked on Sundays, too.</p> <p>14 <b>Q. I'm not -- I understand.</b></p> <p>15 A. In order to --</p> <p>16 <b>Q. Wait. Let me finish.</b></p> <p>17 A. Okay.</p> <p>18 <b>Q. I understand you're saying there may have been</b> 19 <b>times where I worked on Saturday or Sunday, where</b> 20 <b>I wouldn't have known that I was going to work</b> 21 <b>those hours yet, or how many they were.</b></p> <p>22 A. Okay.</p> <p>23 <b>Q. I'm asking, as of Saturday, okay, you would have</b> 24 <b>known that, in the days leading up to that</b> 25 <b>payroll period, that you would have worked extra</b></p>	<p style="text-align: right;">Page 55</p> <p>1 <b>known, I worked those extra hours on Thursday,</b> 2 <b>correct?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. You could have turned those hours in?</b></p> <p>5 A. That would not have been my complete hours for 6 the week.</p> <p>7 <b>Q. So you couldn't say here are my hours up to this,</b> 8 <b>I have some extra appointments on Saturday, and</b> 9 <b>as soon as I figure out how long they are, I will</b> 10 <b>get them to you?</b></p> <p>11 A. Oh, absolutely not. Yeah, you're correct.</p> <p>12 <b>Q. Who told you you weren't allowed to do that?</b></p> <p>13 A. Payroll had to be turned in and complete and 14 there were no alterations.</p> <p>15 <b>Q. Who told you you weren't allowed to do that?</b></p> <p>16 A. I had conversations with Bryce about not being 17 able to turn in my complete hours.</p> <p>18 <b>Q. And -- okay. When was the first time you</b> 19 <b>discussed, with Bryce, that you couldn't turn in</b> 20 <b>all of your complete hours because of your</b> 21 <b>schedule?</b></p> <p>22 A. I can't recall exactly when. There were a couple 23 of them.</p> <p>24 <b>Q. And Bryce told you, I'm sorry, we can make no</b> 25 <b>accommodations for you whatsoever?</b></p>
<p style="text-align: right;">Page 54</p> <p>1 <b>hours, correct?</b></p> <p>2 A. Correct.</p> <p>3 <b>Q. As of Saturday, with respect to those extra hours</b> 4 <b>that you had worked, you knew you had worked</b> 5 <b>them, you could have turned them in on Saturday,</b> 6 <b>correct?</b></p> <p>7 A. If I would have chose to drive back to the store 8 and go in and unlock it and do all of that, yes, 9 I suppose I could have done that.</p> <p>10 <b>Q. Weren't you in the store on Saturdays? I thought</b> 11 <b>you said you worked in the showrooms on</b> 12 <b>Saturdays.</b></p> <p>13 A. Until 1:00.</p> <p>14 <b>Q. So you would have been there till one.</b></p> <p>15 A. And then I would go to a client's house after 16 that because we were not allowed to have 17 appointments outside before one.</p> <p>18 <b>Q. I am not asking you about -- I'm asking you</b> 19 <b>about, specifically, hours that you would have</b> 20 <b>worked before that Saturday.</b></p> <p>21 A. Okay.</p> <p>22 <b>Q. Okay? For example, if on Thursday, you had an</b> 23 <b>appointment after hours --</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. -- when you got there on Saturday, you would have</b></p>	<p style="text-align: right;">Page 56</p> <p>1 A. Correct.</p> <p>2 <b>Q. Okay. How many times did he tell you that?</b></p> <p>3 A. In those terms, once. Not exactly in those 4 words, a couple of other times.</p> <p>5 <b>Q. Were any of those communications in writing or</b> 6 <b>was that all verbal?</b></p> <p>7 A. Those were verbal.</p> <p>8 <b>Q. Did anybody else tell you that we can't make any</b> 9 <b>other accommodations to the payroll system on how</b> 10 <b>hours are turned in?</b></p> <p>11 A. Cindy sent out e-mails saying that the cutoffs 12 for the payrolls were at specific times.</p> <p>13 <b>Q. And did you ever respond to any of those e-mails</b> 14 <b>and say, Look, I don't work on Monday, I've got</b> 15 <b>some hours on Sunday and I'm not going to know</b> 16 <b>what they are --</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. -- how do you want me to handle that?</b> 19 <b>And you responded to that in writing?</b></p> <p>20 A. No. Verbally.</p> <p>21 <b>Q. You responded to that verbally?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. So you would not have responded to any of those</b> 24 <b>in writing?</b></p> <p>25 A. To the best of my recollection, they were all</p>

<p style="text-align: right;">Page 57</p> <p>1 verbal.</p> <p>2 <b>Q. So when you would then follow-up on those</b></p> <p>3 <b>verbally, what would Cindy tell you?</b></p> <p>4 A. I received an e-mail back that indicated that my</p> <p>5 schedule would be changed just to be -- I think</p> <p>6 it was from Bryce actually, that my schedule</p> <p>7 would be changed to work Monday through Friday,</p> <p>8 and nine to one on Saturday.</p> <p>9 <b>Q. Okay.</b></p> <p>10 A. Quote unquote like everybody else.</p> <p>11 <b>Q. Okay. We'll get to that.</b></p> <p>12 <b>I asked you when you had the verbal</b></p> <p>13 <b>discussion with Cindy, when she would send out an</b></p> <p>14 <b>e-mail to you and say, this is the deadline for</b></p> <p>15 <b>getting in your hours; you indicated that you</b></p> <p>16 <b>would then have a verbal communication with her</b></p> <p>17 <b>and say, I can't get my hours in by that time</b></p> <p>18 <b>because of my schedule.</b></p> <p>19 <b>What was her response to that when you would</b></p> <p>20 <b>have those verbal communications?</b></p> <p>21 A. There was no way to accommodate any change in the</p> <p>22 deadlines for turning in your hours.</p> <p>23 <b>Q. And so you were just told you weren't allowed to</b></p> <p>24 <b>turn in any of those overtime hours?</b></p> <p>25 A. In words very close to that, yes.</p>	<p style="text-align: right;">Page 59</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. And their computer guy -- actually it was my</p> <p>3 laptop in their office. So he came into my</p> <p>4 laptop and did whatever he needed to do so that I</p> <p>5 could do what it took to get this project done</p> <p>6 and still man the showroom, as there was one</p> <p>7 showroom attendant for that showroom.</p> <p>8 <b>Q. So you were able to remotely access the software</b></p> <p>9 <b>that you used to put together quotes?</b></p> <p>10 A. Correct.</p> <p>11 <b>Q. How often did you do that?</b></p> <p>12 A. It was basically set up for this specific project</p> <p>13 that was very, very large. So that was when I</p> <p>14 used that to get that project done.</p> <p>15 <b>Q. What project was that?</b></p> <p>16 A. The sunset -- Our Sunset Place Bed &amp; Breakfast in</p> <p>17 Catawba Island.</p> <p>18 <b>Q. So other than that project, you would not have</b></p> <p>19 <b>worked remotely using that software?</b></p> <p>20 A. Correct.</p> <p>21 <b>Q. How about e-mails? Could you get company e-mails</b></p> <p>22 <b>and send company e-mails, like, for example, on</b></p> <p>23 <b>your phone or a computer or at a time when you</b></p> <p>24 <b>weren't in the office?</b></p> <p>25 A. I don't believe I could. My computer was the --</p>
<p style="text-align: right;">Page 58</p> <p>1 MR. SELBY: Can we take a break?</p> <p>2 MS. CHRISTY: That would be</p> <p>3 fantastic. I was sitting here wondering</p> <p>4 when you were going to say that.</p> <p>5 - - - -</p> <p>6 (Off the record.)</p> <p>7 - - - -</p> <p>8 MR. SELBY: We can go back on the</p> <p>9 record.</p> <p>10 BY MR. SELBY:</p> <p>11 <b>Q. Kristine DuPont Designs, do you have a specific</b></p> <p>12 <b>bank account just related to that business?</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. What bank is that with?</b></p> <p>15 A. First Federal of Lakewood.</p> <p>16 <b>Q. And that was true during the time that you were</b></p> <p>17 <b>employed with Active Plumbing as well?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Did you have remote e-mail access?</b></p> <p>20 A. I was -- during the course of one project -- set</p> <p>21 up to be able to do quoting from my house,</p> <p>22 because of the work necessary to do this project</p> <p>23 that I was involved in.</p> <p>24 <b>Q. Was that a specific software package?</b></p> <p>25 A. It was their corporate system.</p>	<p style="text-align: right;">Page 60</p> <p>1 I don't believe I could.</p> <p>2 <b>Q. So you never did, you never sent e-mails</b></p> <p>3 <b>remotely?</b></p> <p>4 A. I can't say I never did, but it wasn't a regular</p> <p>5 practice. It was a while ago, so I apologize if</p> <p>6 I'm vague.</p> <p>7 <b>Q. On the times that you did send e-mails when you</b></p> <p>8 <b>were not in the office, where would you have sent</b></p> <p>9 <b>them from, how would you have done that?</b></p> <p>10 A. The time I remember working remotely was actually</p> <p>11 to quote in to the system, so I wasn't really</p> <p>12 sending e-mails.</p> <p>13 <b>Q. Okay.</b></p> <p>14 A. I was formulating this huge project quote to get</p> <p>15 this job for the company.</p> <p>16 <b>Q. Okay. So you didn't get your e-mails on your</b></p> <p>17 <b>phone?</b></p> <p>18 A. No. I don't believe I had my work e-mails on my</p> <p>19 phone.</p> <p>20 <b>Q. Did you have any type of laptop computer and so</b></p> <p>21 <b>forth that you would take back and forth with you</b></p> <p>22 <b>from work?</b></p> <p>23 A. When I started at Active, my laptop, my personal</p> <p>24 laptop, my software --</p> <p>25 <b>Q. Okay.</b></p>

<p style="text-align: right;">Page 61</p> <p>1 A. -- is what they used for that branch.</p> <p>2 <b>Q. Okay. So you used --</b></p> <p>3 A. But I have Gmail. The company had some Outlook</p> <p>4 or something like that, which is not even on my</p> <p>5 computer, no.</p> <p>6 <b>Q. When the company could e-mail with you, would</b></p> <p>7 <b>they e-mail to your Gmail account, or did you</b></p> <p>8 <b>have an Active Plumbing e-mail account?</b></p> <p>9 A. They had an Active Plumbing account for me.</p> <p>10 <b>Q. And you got that on that computer that you used</b></p> <p>11 <b>that was yours that you used as the computer for</b></p> <p>12 <b>that?</b></p> <p>13 A. Until they replaced it with a company computer</p> <p>14 and they supplied updated software.</p> <p>15 <b>Q. Did you ever take that computer back and forth</b></p> <p>16 <b>from work with you?</b></p> <p>17 A. The company computer?</p> <p>18 <b>Q. Yes.</b></p> <p>19 A. No, sir.</p> <p>20 <b>Q. It always stayed in the office?</b></p> <p>21 A. Correct.</p> <p>22 <b>Q. So I want to go back through your employment</b></p> <p>23 <b>history, that's where we sort of got sidetracked.</b></p> <p>24 <b>When did your employment with Active Plumbing</b></p> <p>25 <b>end?</b></p>	<p style="text-align: right;">Page 63</p> <p>1 <b>Q. A couple months?</b></p> <p>2 A. No. No.</p> <p>3 <b>Q. It was a relatively short-term job?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. How about prior to that?</b></p> <p>6 A. I worked for -- directly prior to that, I worked</p> <p>7 for myself and I think I worked at Edgewater</p> <p>8 Yacht Club in the summer.</p> <p>9 <b>Q. What did you do at Edgewater Yacht Club?</b></p> <p>10 A. I was a bartender for them.</p> <p>11 <b>Q. Any other design jobs besides your own company,</b></p> <p>12 <b>Active Plumbing and the other short-term one?</b></p> <p>13 A. I was a designer for Wolff Brothers Supply in the</p> <p>14 early 2000s for their kitchen and bath</p> <p>15 department.</p> <p>16 Designer jobs?</p> <p>17 <b>Q. Yeah.</b></p> <p>18 A. That's the best I recall right this second.</p> <p>19 <b>Q. How long did you work at Wolff Brothers?</b></p> <p>20 A. Three years, I believe.</p> <p>21 <b>Q. How were you paid there?</b></p> <p>22 A. I was paid hourly plus commission, I believe.</p> <p>23 <b>Q. Now, you worked at the Avon location, correct?</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. How was that location staffed during the time</b></p>
<p style="text-align: right;">Page 62</p> <p>1 A. I believe it was the first week of June.</p> <p>2 <b>Q. Describe how your employment ended.</b></p> <p>3 A. I came in to work and was met by Greg Taylor and</p> <p>4 Bryce Barber and there was a short meeting and I</p> <p>5 was let go.</p> <p>6 <b>Q. What were you told?</b></p> <p>7 A. I don't recall the exact words, it was kind of,</p> <p>8 "it's not working out."</p> <p>9 <b>Q. Besides Active Plumbing and Kristine DuPont</b></p> <p>10 <b>Designs, where was the last job you had before</b></p> <p>11 <b>Active Plumbing?</b></p> <p>12 A. I was a designer for Litts Kitchens and Baths.</p> <p>13 <b>Q. Where was that located?</b></p> <p>14 A. Parma.</p> <p>15 <b>Q. How long did you work there?</b></p> <p>16 A. I don't recall. My father got very ill and I had</p> <p>17 to quit.</p> <p>18 <b>Q. Do you recall the time period when it was?</b></p> <p>19 A. 2013 maybe. 2012, 2013. Maybe 2011, 2012.</p> <p>20 Somewhere in there.</p> <p>21 <b>Q. When did you start there?</b></p> <p>22 A. I don't recall.</p> <p>23 <b>Q. Okay. I mean, was this a job that you had for</b></p> <p>24 <b>years?</b></p> <p>25 A. No.</p>	<p style="text-align: right;">Page 64</p> <p>1 <b>that you worked for the company?</b></p> <p>2 A. The majority of the time, I was the only showroom</p> <p>3 attendant. Towards the end of my employment --</p> <p>4 and I can't tell you exactly how many months --</p> <p>5 <b>Q. That's fine.</b></p> <p>6 A. -- they had brought in another designer for</p> <p>7 staffing.</p> <p>8 <b>Q. Who was that?</b></p> <p>9 A. Kelsey Sizemore.</p> <p>10 <b>Q. Were there any other employees in the Avon</b></p> <p>11 <b>location besides you as the showroom attendant?</b></p> <p>12 A. As the showroom attendant? No.</p> <p>13 <b>Q. Were there any other employees?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. Besides you?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. Who were the other employees who were at the</b></p> <p>18 <b>site?</b></p> <p>19 A. In the parts department, in the back of the</p> <p>20 building, there were Greg Taylor and Quinton</p> <p>21 Patrick.</p> <p>22 <b>Q. What was Greg Taylor's job?</b></p> <p>23 A. Branch manager.</p> <p>24 <b>Q. And what was Quinton Patrick's job?</b></p> <p>25 A. Employee in the back.</p>

<p style="text-align: right;">Page 65</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. To the best of my knowledge, I'm sorry.</p> <p>3 <b>Q. That's fine.</b></p> <p>4 <b>As a designer, what were your</b></p> <p>5 <b>responsibilities?</b></p> <p>6 A. I was to staff the showroom during the hours that</p> <p>7 it was open those days that I was working. I was</p> <p>8 to greet clients, help them with recommended</p> <p>9 products.</p> <p>10 If there was a project, like a kitchen</p> <p>11 design, then I was to go and measure that and go</p> <p>12 through the process of reviewing the materials,</p> <p>13 making sure that it was right; basically, make</p> <p>14 the sale, follow through with the sale with the</p> <p>15 assistance that may be needed of questions.</p> <p>16 It was basically customer service, staffing,</p> <p>17 following through and making sure that materials</p> <p>18 are coming in for whatever people had ordered.</p> <p>19 <b>Q. Were all of the customers that you dealt with --</b></p> <p>20 <b>back up. Strike that.</b></p> <p>21 <b>How did you identify or find customers?</b></p> <p>22 A. Active is a wholesaler, so a majority of the rest</p> <p>23 of the company's business was professional</p> <p>24 plumbers sending in their clients to pick out</p> <p>25 selections. We would actually, in many cases, be</p>	<p style="text-align: right;">Page 67</p> <p>1 be. And we would show Mrs. Jones selections in</p> <p>2 what Mr. XYZ Plumbing told us to do.</p> <p>3 <b>Q. All right.</b></p> <p>4 A. Someone may walk in and say "I'm thinking about</p> <p>5 redoing my kitchen and bathroom."</p> <p>6 Are you working with a construction</p> <p>7 remodeling person?</p> <p>8 Yes, no.</p> <p>9 Then you kind of just give them a showroom</p> <p>10 tour, send them on their way and hope that they</p> <p>11 come back and make an appointment for you to work</p> <p>12 up a design and start talking with them.</p> <p>13 Some things you cannot have in an initial</p> <p>14 conversation about, because you can't design a</p> <p>15 kitchen when you don't have enough information.</p> <p>16 <b>Q. I understand.</b></p> <p>17 A. So everything varied, honestly.</p> <p>18 <b>Q. How would you go about assembling all of the</b></p> <p>19 <b>information you needed to be able to do the</b></p> <p>20 <b>design work that needed to be done?</b></p> <p>21 A. First of all, you would have to find out what the</p> <p>22 needs are and who you're working for.</p> <p>23 If you're working for a plumber and all he</p> <p>24 wants you to do is help Mr. Jones pick out a new</p> <p>25 toilet, then that's all you do.</p>
<p style="text-align: right;">Page 66</p> <p>1 selling to that plumber and act as a liaison for</p> <p>2 them.</p> <p>3 We were also open to the public. So there</p> <p>4 was the public walk-in business that would happen</p> <p>5 as well, without the connection of an already</p> <p>6 existing client of ours, being a professional</p> <p>7 plumber or whatnot.</p> <p>8 <b>Q. Right.</b></p> <p>9 A. So it was two-fold.</p> <p>10 And then there were referrals from the public</p> <p>11 of people that had come in and that was how I</p> <p>12 tried to grow the business for that branch.</p> <p>13 <b>Q. Walk me through the process. Somebody's coming</b></p> <p>14 <b>in and is doing a remodel of something that</b></p> <p>15 <b>Active Plumbing would handle.</b></p> <p>16 <b>Just walk me through the process of what you,</b></p> <p>17 <b>as the showroom attendant -- sort of from start</b></p> <p>18 <b>to finish on a job -- would do with a particular</b></p> <p>19 <b>customer.</b></p> <p>20 A. There's no straight answer to that.</p> <p>21 If you were Mrs. Jones and you came in and</p> <p>22 said we're putting a new shower in and Tom ABC</p> <p>23 said come in. Then Tom ABC, hopefully, would</p> <p>24 have called us and said Mrs. Jones needs to look</p> <p>25 at an acrylic shower, this is where she needs to</p>	<p style="text-align: right;">Page 68</p> <p>1 If you're working for someone else that's a</p> <p>2 smaller remodeler and they've sent you in because</p> <p>3 they know Mrs. Jones will be enamored with the</p> <p>4 fact that you might actually go over and get the</p> <p>5 Sherwin-Williams boxes out of the showroom</p> <p>6 cupboard and say, Well, Mrs. Jones, here's what I</p> <p>7 recommend for your cabinets, and create a space</p> <p>8 for her, then that's what you do for her. It's</p> <p>9 kind of dictated by the client, there's no one</p> <p>10 answer.</p> <p>11 <b>Q. What were your regular hours of employment when</b></p> <p>12 <b>you were first hired?</b></p> <p>13 A. The showroom hours that I was hired to work were</p> <p>14 eight to five, Tuesday through Friday, nine to</p> <p>15 one, Saturday.</p> <p>16 <b>Q. How often would you have to go to a customer's</b></p> <p>17 <b>home or business to perform any of your tasks?</b></p> <p>18 A. Quite often.</p> <p>19 <b>Q. What is "quite often"?</b></p> <p>20 A. On average, I would say three to four times a</p> <p>21 week.</p> <p>22 <b>Q. And when would you schedule those?</b></p> <p>23 A. We would schedule whatever I could for them, to</p> <p>24 bring me information to the showroom, during</p> <p>25 hours.</p>

<p style="text-align: right;">Page 69</p> <p>1 Although you had no control over walk-in  2 business or appointments that could come through  3 the door.  4 Many people were professionals so they would  5 control it and they would want you to come after  6 they get off of work at 5:30 or 6 or whatever or  7 keep the showroom open and close it to the public  8 and have them meet you in there.  9 So it was really trying to accommodate the  10 purchaser's needs, and not leave the showroom  11 without a showroom attendant because that didn't  12 sit well either.  13 <b>Q. So if you had to go to somebody's home, would you</b>  14 <b>typically schedule that during hours you weren't</b>  15 <b>otherwise scheduled to be in the showroom or</b>  16 <b>would you sometimes schedule those during the</b>  17 <b>showroom hours?</b>  18 A. We were very short staffed so I was discouraged  19 from leaving the showroom for appointments during  20 the week, day of operation hours.  21 So I would schedule, first of all, to what  22 the customer needs and what would work with the  23 showroom hours.  24 <b>Q. So did you never schedule during showroom hours</b>  25 <b>or was it just that the majority were during</b></p>	<p style="text-align: right;">Page 71</p> <p>1 <b>you were there?</b>  2 A. When you would go to someone's house it would be  3 for a project that was usually involving a  4 remodeler or a bigger remodel, so I would measure  5 specifically to make sure, obviously, that the  6 cabinets we were going to do were going to fit,  7 to verify where the sink was going to sit was  8 where the drain was, things like that.  9 Check things to make sure that what they were  10 purchasing would work with what they wanted their  11 builder to do or what their builder wanted me to  12 look for.  13 <b>Q. Or what existed in the house?</b>  14 A. Yeah. Pretty much, yeah.  15 <b>Q. How long would one of those appointments</b>  16 <b>typically last?</b>  17 A. I've had long ones last three, three-and-a-half  18 hours or longer.  19 <b>Q. How often would you have a long one like that?</b>  20 A. Probably once a week or so at least.  21 <b>Q. Well, what was a typical one?</b>  22 A. Average-wise? Probably three hours, if you want  23 to average them all out.  24 <b>Q. Every time you went to somebody's house, you'd be</b>  25 <b>there for three hours?</b></p>
<p style="text-align: right;">Page 70</p> <p>1 <b>non-showroom hours?</b>  2 A. I would say there was a pretty equal balance  3 actually.  4 <b>Q. So half the time when you had an appointment at</b>  5 <b>somebody's house, it would be during business</b>  6 <b>hours, regular showroom hours, and other times it</b>  7 <b>would be outside of those showroom hours?</b>  8 A. That could be fairly accurate.  9 <b>Q. Okay.</b>  10 A. There wasn't a specific agenda.  11 <b>Q. I understand. I'm just trying to get an idea of</b>  12 <b>what things were like.</b>  13 <b>So how many days, per week, would you have</b>  14 <b>meetings at a customer's home or place of</b>  15 <b>business outside of regular showroom hours when</b>  16 <b>you would have to leave to go to them?</b>  17 A. After closing?  18 <b>Q. Outside of regular showroom hours. After</b>  19 <b>closing, on a Monday when you were not scheduled</b>  20 <b>to work, on a Sunday when you were not scheduled</b>  21 <b>to work, just outside?</b>  22 A. On average? On average, probably three to four  23 times.  24 <b>Q. And when you would go to somebody's home, what</b>  25 <b>were the things you had to do in their home when</b></p>	<p style="text-align: right;">Page 72</p> <p>1 A. You said typically. I said average.  2 <b>Q. On average, okay.</b>  3 A. Well, if I've got one that's one hour and I got  4 one that's eight hours and one that's three  5 hours, I'm going to say the average is probably  6 three hours.  7 <b>Q. So you had ones that lasted eight hours?</b>  8 A. When I did the Catawba project I worked there  9 almost every Monday and was on-call constantly to  10 be out there.  11 <b>Q. How long did that project last?</b>  12 A. Months. It's one of the biggest projects that  13 went out of my branch and it was a referral to me  14 directly.  15 <b>Q. What period of time was it?</b>  16 A. I believe it started -- I'm going to say that  17 project lasted seven to eight months. It started  18 in the winter because of a fire and was done the  19 following --  20 <b>Q. What did the project involve?</b>  21 A. The complete plumbing and all the materials for a  22 complete gutted fire job in a bed and breakfast.  23 The place burned to the ground.  24 <b>Q. Okay.</b>  25 A. So I worked with the general contractors and with</p>



<p style="text-align: right;">Page 73</p> <p>1 the plumber and they were all my kind of -- like</p> <p>2 my customers I had to work with on that one, I</p> <p>3 guess.</p> <p>4 <b>Q. Was any of that work done through Kristine DuPont</b></p> <p>5 <b>Designs?</b></p> <p>6 A. None.</p> <p>7 <b>Q. So all you did was the kitchen, bath and plumbing</b></p> <p>8 <b>work?</b></p> <p>9 A. I did -- I picked out the finishes for all the</p> <p>10 tile -- yes, all the kitchens, the baths, the</p> <p>11 plumbing work. She and her daughter would bring</p> <p>12 to the showroom paint things that they would</p> <p>13 like, I would say beautiful, that's great.</p> <p>14 <b>Q. So there wasn't any nonactive plumbing work that</b></p> <p>15 <b>you did in connection with that one?</b></p> <p>16 A. Nope.</p> <p>17 <b>Q. And you were out there every Monday for eight</b></p> <p>18 <b>hours, for seven to eight months?</b></p> <p>19 A. I would say throughout the typical week I would</p> <p>20 spend eight hours on that project alone.</p> <p>21 There were Sundays that I would work three or</p> <p>22 four hours and Mondays, I would be out there five</p> <p>23 hours. But that project, alone, was probably</p> <p>24 eight to ten hours a week outside of Active</p> <p>25 hours, easily.</p>	<p style="text-align: right;">Page 75</p> <p>1 months. I would have to research exact timelines</p> <p>2 to say that, but that is a very, to the best of</p> <p>3 my knowledge, a very good estimation.</p> <p>4 <b>Q. Did you ever do any design work with respect to</b></p> <p>5 <b>that outside of business hours?</b></p> <p>6 A. Could you clarify that question?</p> <p>7 <b>Q. Yeah. Anything on the computer, any of the CAD,</b></p> <p>8 <b>any of the putting together of the quotes?</b></p> <p>9 A. Oh, yeah. That's the big project that I got the</p> <p>10 access for to work at home, to get the quotes</p> <p>11 done because it was mind boggling how much work</p> <p>12 there was to figure out everything in a burned</p> <p>13 out building so that the plumbers' parts, that he</p> <p>14 wanted to sell to his client, would be right.</p> <p>15 <b>Q. How long did it take you to put together that</b></p> <p>16 <b>quote?</b></p> <p>17 A. To get it finalized and complete with all those</p> <p>18 products, there's probably 60 to 70 hours worth</p> <p>19 of quoting done in that.</p> <p>20 <b>Q. How much of that time would have been spent</b></p> <p>21 <b>during your regular showroom hours and how much</b></p> <p>22 <b>of that time would have been spent outside?</b></p> <p>23 A. The majority of it was outside because I couldn't</p> <p>24 handle the walk-in showroom business and handle</p> <p>25 that project at the same time.</p>
<p style="text-align: right;">Page 74</p> <p>1 <b>Q. So during those eight to ten hours, that were</b></p> <p>2 <b>outside of Active Plumbing --</b></p> <p>3 A. Uhm-hum.</p> <p>4 <b>Q. -- what were you doing?</b></p> <p>5 A. I would be on site with the plumbers going over</p> <p>6 questions about how the plumbing was getting laid</p> <p>7 out versus the drawings. Same thing with</p> <p>8 cabinets, all the things that were supplied,</p> <p>9 reviewing the tile with the tile people, just</p> <p>10 everything. It was a huge, huge, huge project.</p> <p>11 When the truck dropped off pallets of stuff I</p> <p>12 had to be out there to verify that it was right,</p> <p>13 sort it, label it for all the rooms, per the</p> <p>14 plumber's request and the builder's request.</p> <p>15 Pallets of parts. This was a huge bed and</p> <p>16 breakfast.</p> <p>17 <b>Q. Who was the customer on this project?</b></p> <p>18 A. The homeowner was Sandy Irwin. The contractor</p> <p>19 was Homeworks and the plumber was Jim Wilson. So</p> <p>20 they were all customers of Active's on this</p> <p>21 project.</p> <p>22 <b>Q. And again, how long was it that you were going --</b></p> <p>23 <b>that you were spending eight to ten hours, per</b></p> <p>24 <b>week, outside of Active Plumbing?</b></p> <p>25 A. I believe that project went on for six to eight</p>	<p style="text-align: right;">Page 76</p> <p>1 <b>Q. How much did the quote end up ultimately being?</b></p> <p>2 A. I believe Active sold, I'm going to say, a</p> <p>3 hundred to \$130,000 worth of materials at</p> <p>4 wholesale for that project, possibly even more.</p> <p>5 I could verify that by looking it up, maybe. I</p> <p>6 don't think I have those records available.</p> <p>7 <b>Q. Were there any other jobs, you can recall, where</b></p> <p>8 <b>you did sort of putting together the quoting,</b></p> <p>9 <b>design, CAD work, et cetera, outside of regular</b></p> <p>10 <b>hours?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. What jobs would have those been?</b></p> <p>13 A. I believe the Danko project for Pompeii. The</p> <p>14 majority of that was done outside.</p> <p>15 I can't recall all. I would have to look at</p> <p>16 the company calendar to tell you. I worked with</p> <p>17 a lot of people.</p> <p>18 <b>Q. So none others you can recall, off the top of</b></p> <p>19 <b>your head?</b></p> <p>20 A. No, not off the top of my head.</p> <p>21 <b>Q. There were periods of time, while you worked for</b></p> <p>22 <b>the company, that you were paid overtime hours,</b></p> <p>23 <b>correct?</b></p> <p>24 A. Sporadically, yes, correct.</p> <p>25 <b>Q. And on those occasions, you would submit a</b></p>



<p style="text-align: right;">Page 77</p> <p>1 written documentation showing those extra hours</p> <p>2 you had worked, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Were there any occasions on which you had</p> <p>5 submitted that written documentation, detailing</p> <p>6 overtime hours, for which you were not paid for</p> <p>7 those overtime hours?</p> <p>8 A. I believe so.</p> <p>9 Q. Do you recall on how many occasions those</p> <p>10 happened?</p> <p>11 A. I do not recall exactly.</p> <p>12 Q. Do you know what dates those were?</p> <p>13 A. I can't say exactly without looking in to</p> <p>14 documentation.</p> <p>15 Q. What documentation would you need to look at?</p> <p>16 A. The company calendars and just to look at my</p> <p>17 paychecks and see. I do think I recall a couple</p> <p>18 times where I turned in stuff and it did not get</p> <p>19 paid and that raised questions; to get exact</p> <p>20 dates, I don't have exact dates, I'm sorry.</p> <p>21 Q. Do you have the records available where you would</p> <p>22 be able to identify those dates?</p> <p>23 A. I can't say at this time.</p> <p>24 Q. During the times that you submitted sheets</p> <p>25 indicating that you had worked overtime and then</p>	<p style="text-align: right;">Page 79</p> <p>1 MR. SELBY: Back on the record.</p> <p>2 BY MR. SELBY:</p> <p>3 Q. Who does Jim Wilson work for?</p> <p>4 A. I believe he's his own company.</p> <p>5 Q. His own company? Was it just like Jim Wilson</p> <p>6 Plumbing?</p> <p>7 A. I think that's it actually.</p> <p>8 Q. Do you know where his office is or where he's out</p> <p>9 of?</p> <p>10 A. No. I think the Elyria, Avon area.</p> <p>11 Q. So with respect to the overtime you're seeking in</p> <p>12 this case, you had indicated that for the periods</p> <p>13 that you were paid overtime and turned in sheets,</p> <p>14 that those would have accurately reflected the</p> <p>15 number of overtime hours you had actually worked</p> <p>16 during those pay periods, correct?</p> <p>17 A. I think they could be relatively accurate. I</p> <p>18 would check against my appointment calendar,</p> <p>19 honestly, to verify it.</p> <p>20 Q. Have you gone back to -- you know, there were</p> <p>21 records produced in connection with this case,</p> <p>22 and you've produced records.</p> <p>23 Have you gone back to try to reconstruct any</p> <p>24 periods of time when you know you would have</p> <p>25 worked certain hours or figured out how many of</p>
<p style="text-align: right;">Page 78</p> <p>1 were compensated for that overtime, did those</p> <p>2 sheets reflect the total number of hours that you</p> <p>3 worked during those pay periods?</p> <p>4 A. I would say yes.</p> <p>5 Q. Why were there some occasions when you turned in</p> <p>6 that paperwork and some occasions when you did</p> <p>7 not?</p> <p>8 A. Going back to our previous conversations, I was</p> <p>9 instructed there is no way to track overtime,</p> <p>10 you're not getting paid overtime, and we don't</p> <p>11 pay overtime. And it got to be a little bit</p> <p>12 uncomfortable and hostile the more I pressed the</p> <p>13 envelope and I was discouraged to do it, so I</p> <p>14 didn't.</p> <p>15 And then when I would fight enough, I would</p> <p>16 be told "Okay. Do it," and then "No."</p> <p>17 It would make no sense for me, not to turn in</p> <p>18 for hours I worked, to get paid on a regular</p> <p>19 basis.</p> <p>20 MR. SELBY: Let's go off the</p> <p>21 record.</p> <p>22 - - - -</p> <p>23 (Thereupon, a discussion was had off</p> <p>24 the record.)</p> <p>25 - - - -</p>	<p style="text-align: right;">Page 80</p> <p>1 those hours there are?</p> <p>2 A. The screen shots of the intercompany calendar</p> <p>3 that showed everybody's appointments were cut off</p> <p>4 and that detail would show the appointments I had</p> <p>5 at clients' houses outside of --</p> <p>6 Q. So what detail was cut off?</p> <p>7 A. Everything. It just showed my name and the</p> <p>8 showroom hours for the day and then after that</p> <p>9 you would see the appointments that people were</p> <p>10 on for the day.</p> <p>11 That calendar is not inclusive of all of the</p> <p>12 outside work activities, but it does show actual</p> <p>13 client house visits.</p> <p>14 Q. Okay. So those records were on those time sheets</p> <p>15 that were produced, correct?</p> <p>16 A. Not in completion.</p> <p>17 Q. Okay. What was incomplete about them?</p> <p>18 A. The detail of each day.</p> <p>19 Q. So what was done during --</p> <p>20 A. The actual appointments that were kept for that</p> <p>21 day, were not included on it.</p> <p>22 Q. Ones during the, your regular showroom or outside</p> <p>23 of the showroom?</p> <p>24 A. Both.</p> <p>25 Q. Both?</p>

<p style="text-align: right;">Page 81</p> <p>1       <b>Were there ones outside of the showroom hours</b>  2       <b>on there, reflected on there?</b>  3       A. Yes.  4       <b>Q. So you're saying some of the appointments were</b>  5       <b>there, but not all of the appointments?</b>  6       A. It's possible. Quite possible, yes.  7       <b>Q. Have you used that to go back to calculate the</b>  8       <b>number of hours you believed you were working</b>  9       <b>during each one of these weeks?</b>  10      A. I would need that complete information in order  11      to do so.  12      <b>Q. So "no"?</b>  13      A. Correct.  14      <b>Q. You have not done it?</b>  15      A. I have not done it. Yes, I'm sorry.  16      <b>Q. So what makes you believe that that is</b>  17      <b>incomplete?</b>  18      A. It is incomplete. By looking at it, I viewed it  19      and I saw it to be incomplete.  20      <b>Q. You know of appointments that you had that are</b>  21      <b>not reflected on there?</b>  22      A. Yes.  23      <b>Q. And you know, like on this specific day, I know I</b>  24      <b>was on this appointment?</b>  25      A. In some cases, but not in all. It would take</p>	<p style="text-align: right;">Page 83</p> <p>1       - - - -  2       (Thereupon, Defendant's Exhibit 2,  3       pay document for k.dupont, was marked for  4       purposes of identification.)  5       - - - -  6       BY MR. SELBY:  7       <b>Q. This is a document that I believe had been</b>  8       <b>produced to your attorney prior to this lawsuit</b>  9       <b>being filed that set forth all of your gross pay.</b>  10      <b>Have you reviewed this previously?</b>  11      A. This document particularly? No, sir.  12      <b>Q. Do you know whether this accurately reflects the</b>  13      <b>number of overtime hours you've actually been</b>  14      <b>paid?</b>  15      A. I do not.  16      <b>Q. Do you have any records, yourself, that show the</b>  17      <b>number of overtime hours you've actually been</b>  18      <b>paid?</b>  19      A. On my paycheck stub there is no overtime hours  20      category, so I cannot go by that. The only thing  21      I can go by is -- no. Okay. No would be the  22      answer.  23      <b>Q. You just received paychecks with your gross pay?</b>  24      A. There were paychecks with the gross pay, then  25      there was a category for bonus.</p>
<p style="text-align: right;">Page 82</p> <p>1       that calendar to correlate appointments as well.  2       It's the equivalent of me handing you this  3       piece of paper, like this, without the full sheet  4       of paper with the details.  5       <b>Q. I understand.</b>  6       A. Okay.  7       <b>Q. When you say it's incomplete, is it because the</b>  8       <b>information isn't in the system or because the</b>  9       <b>printouts were cut off and that that information</b>  10      <b>is there and can be retrieved?</b>  11      A. Correct. Because the printouts are cut off.  12      <b>Q. That was an either or and you answered "correct."</b>  13      A. Your last statement, the information was in the  14      system. The printouts are not the complete  15      printouts.  16      <b>Q. So there's additional information, you believe,</b>  17      <b>in the system, that would allow that?</b>  18      A. Yes, sir.  19      <b>Q. Okay. And that additional information would be</b>  20      <b>the detail?</b>  21      A. Correct. My mileage sheets also reflect  22      appointments on days that I got paid mileage for  23      that were outside of working hour days as well.  24              MR. SELBY: Let's go ahead and  25              mark this as Defendant's Exhibit 2.</p>	<p style="text-align: right;">Page 84</p> <p>1       <b>Q. Okay.</b>  2       A. And another category for commission.  3       <b>Q. Okay.</b>  4       A. And I'm not sure -- there was no overtime  5       category. I can't speak to every category, but  6       there was bonus, commission, regular hours,  7       vacation, sick -- and I'm sorry, without them in  8       front of me, I can't --  9       <b>Q. Fair enough.</b>  10      <b>Do you have -- I know you've referred to, a</b>  11      <b>number of times, company records you would need</b>  12      <b>to put together to assemble the number of hours</b>  13      <b>that you believe you actually worked.</b>  14      <b>Do you have any records in your possession,</b>  15      <b>that would identify the number of hours you were</b>  16      <b>actually working?</b>  17      A. Not in completion, no.  18      <b>Q. Incompletely? Like, anything that you have that</b>  19      <b>would show some of the hours that you were</b>  20      <b>working?</b>  21      A. Yes.  22      <b>Q. What documentation do you have that would show</b>  23      <b>some of the hours that you were working?</b>  24      A. The documentation that was supplied to you, my  25      mileage statements that I was paid on, would show</p>

<p style="text-align: right;">Page 85</p> <p>1 the days of non-working hours where I was on  2 appointments.  3 I don't have access to calendars and old  4 e-mails, so that would be difficult.  5 So in my possession, the mileage records and  6 things of that nature.  7 <b>Q. Do the mileage records indicate what times that</b>  8 <b>the travel would have been undertaken?</b>  9 A. Unfortunately, no. It's the miles and the  10 location and the name of the customer I was at.  11 <b>Q. So you wouldn't be able to, just from the mileage</b>  12 <b>reports, be able to differentiate between</b>  13 <b>appointments that you kept during business hours</b>  14 <b>and ones you kept outside of showroom hours?</b>  15 A. Certain ones, yes. I was off on Mondays and  16 Sundays and I've got mileage for those days.  17 Saturdays after 1:00, I have mileage recorded for  18 those.  19 <b>Q. But I mean, if it was on a Saturday, you wouldn't</b>  20 <b>know whether it was during showroom hours or --</b>  21 A. We were told not to have outside appointments  22 during showroom hours, so you had to do them  23 after work.  24 <b>Q. I thought you said earlier that your appointments</b>  25 <b>were maybe 50/50 during showroom hours and</b></p>	<p style="text-align: right;">Page 87</p> <p>1 <b>Q. So from the records that you have with respect to</b>  2 <b>mileage, have you gone and tried to identify any</b>  3 <b>of the numbers, at least from those mileage, that</b>  4 <b>would indicate any overtime hours?</b>  5 <b>Have you gotten to calculate that? Have you</b>  6 <b>ever actually done that?</b>  7 A. I don't have the complete records to do it, but  8 I've begun, yes.  9 <b>Q. Have you done it with respect to incomplete</b>  10 <b>records?</b>  11 A. I've looked over the documentation that we  12 provided to you and started to sort out days of  13 the week that they were and started that process  14 a little bit.  15 <b>Q. Have you put together a list of days?</b>  16 A. No, I have not yet.  17 <b>Q. Have you done any actual calculations as to what</b>  18 <b>those days are?</b>  19 A. The specific days of the week?  20 <b>Q. Yeah.</b>  21 A. No.  22 <b>Q. Is that something that you plan to do?</b>  23 A. With the documentation of the calendar and  24 e-mails, I would love to do that, yes.  25 <b>Q. You're going to go back and try to recreate that</b></p>
<p style="text-align: right;">Page 86</p> <p>1 <b>outside of showroom hours.</b>  2 A. That's correct. There was a memo sent out not to  3 do appointments during Saturdays because of the  4 short staffing and the heavy business.  5 <b>Q. Okay.</b>  6 A. And in my situation, I was the only showroom  7 attendant at that branch so I was discouraged to  8 have people from the back cover the showroom  9 while I went on appointments.  10 <b>Q. Who covered the front when you were out on</b>  11 <b>appointments during regular hours?</b>  12 A. Before there was a secondary designer, which was  13 brought in towards the end of my employment, men  14 from the back, in the parts department, would  15 come up and cover the showroom if the bell went  16 off and someone had come in or something of that  17 nature.  18 <b>Q. Who were those people?</b>  19 A. Quinton or Greg.  20 <b>Q. Had they ever worked as showroom designers</b>  21 <b>before?</b>  22 A. I don't know their employment history, but I  23 believe everybody's kind of been cross-trained  24 that's been there for a long, long time. I can't  25 speak to their exact past titles for the company.</p>	<p style="text-align: right;">Page 88</p> <p>1 <b>the best you can?</b>  2 A. Absolutely.  3 MR. SELBY: Let's mark this as  4 Exhibit 3.  5 - - - -  6 (Thereupon, Defendant's Exhibit 3,  7 work schedule for k.dupont, was marked for  8 purposes of identification.)  9 - - - -  10 BY MR. SELBY:  11 <b>Q. Have you seen these forms before?</b>  12 A. Some of them.  13 <b>Q. Which ones have you not seen?</b>  14 A. The first page.  15 <b>Q. Other than the first page, are there any that you</b>  16 <b>have not seen?</b>  17 A. In completion with notes from both sides, I have  18 not seen the third page.  19 I have not seen the fourth page.  20 <b>Q. Okay. Hold on. Let's slow down. Third page,</b>  21 <b>what part have you not seen?</b>  22 A. Cindy's notes, "Overtime but not double time is  23 her choice to work on a holiday." That note.  24 <b>Q. Fourth page?</b>  25 A. Fourth page, this is completely not written by</p>

<p style="text-align: right;">Page 89</p> <p>1 me. It was written, I think, by Chuck, I'm not  2 sure, but that's his name. And they're both for  3 the same time period, so I don't know.  4 <b>Q. Who was Chuck?</b>  5 A. Chuck is someone in the company's upper echelon.  6 <b>Q. What's the next page, anything that you don't --</b>  7 A. One, two, three, four. Page 5 is not my  8 handwriting.  9 <b>Q. Which one is?</b>  10 A. Well, my name's on the top, and not my  11 handwriting.  12 <b>Q. What's it dated?</b>  13 A. 1/22/15, I apologize. It looks like I filled out  14 the hours and then the "pay 1 day" that's  15 scratched out, was not in my handwriting.  16 <b>Q. Okay.</b>  17 A. The next page dated 4/2, the original writing is  18 mine. The comp. time little note on there is not  19 my handwriting.  20 <b>Q. And I want to make a comment here with respect to</b>  21 <b>this -- your normal schedule was Tuesday through</b>  22 <b>Saturday, correct?</b>  23 A. Correct.  24 <b>Q. Were there some occasions, for example, here,</b>  25 <b>where you worked Monday instead, and then took</b></p>	<p style="text-align: right;">Page 91</p> <p>1 handwriting. But it seems to be where time was  2 used as comp. time for a day I was off when I was  3 sick.  4 <b>Q. When you changed during the week? In other</b>  5 <b>words, you would work Monday because you had been</b>  6 <b>off another day?</b>  7 A. I can't speak to those being that day, I would  8 have to look back. And I don't see that.  9 <b>Q. Okay.</b>  10 A. The next page 4/16, I was off sick. I wrote "off  11 sick." That looks like my handwriting. The  12 Monday 8:00 to 3:00 is my handwriting. This  13 "comp. time" notation, I don't know. That's not  14 my handwriting.  15 <b>Q. Okay.</b>  16 A. The page dated 5/28/15, appears to be my  17 handwriting untouched.  18 The last page, dated 12/10, the grid with the  19 hours written in it, appears to be my  20 handwriting. And the rest of the notations are  21 not.  22 <b>Q. Okay. You had mentioned earlier in your</b>  23 <b>testimony, you had talked about a form where</b>  24 <b>hours could be submitted.</b>  25 <b>Are any of these that form that you were</b></p>
<p style="text-align: right;">Page 90</p> <p>1 <b>Tuesday off?</b>  2 A. It appears so, on this sheet.  3 <b>Q. Okay. Do you recall ever having done that?</b>  4 A. I can't name times, no, not off the top of my  5 head, but it appears, on this sheet, that I did.  6 <b>Q. Okay.</b>  7 A. The next page dated 4/2, I filled out, it looks  8 like the original writing.  9 The comp. time parentheses bracket is not my  10 handwriting, nor is the X out and the stuff on  11 the right-hand side.  12 The next page dated 4/2, I did not -- the  13 "next pay period" note is not mine or the Xing  14 out is not mine, but the original handwriting is.  15 The next page dated 4/16, the original  16 writing is mine. The crossed out line of 8 to 5  17 on 4/2 is not mine and the extra day notation is  18 not mine.  19 The bottom part of that page, 3/29, the  20 original handwriting is mine.  21 The crossed out lineage and the circled  22 number at the bottom right, is not mine. The  23 number is, the circle is not. Let me correct  24 that.  25 The page dated 4/16, none of this is my</p>	<p style="text-align: right;">Page 92</p> <p>1 <b>talking about?</b>  2 A. Examples of that are page 2.  3 <b>Q. This document called change in work hours?</b>  4 A. That's correct.  5 <b>Q. Okay.</b>  6 <b>MR. SELBY: Let's mark this as</b>  7 <b>Exhibit 4.</b>  8 - - - -  9 <b>(Thereupon, Defendant's Exhibit 4,</b>  10 <b>email, 5/22/15 from c.barber to multiple</b>  11 <b>people, was marked for purposes of</b>  12 <b>identification.)</b>  13 - - - -  14 <b>MS. TATARKO: What is that, Ric?</b>  15 <b>MR. SELBY: Here are the e-mails.</b>  16 <b>BY MR. SELBY:</b>  17 <b>Q. So what I've shown you, as Defendant's Exhibit 4,</b>  18 <b>is an e-mail dated Friday, May 22nd, 2015.</b>  19 <b>There's an e-mail from Cindy to a number of</b>  20 <b>people, including to you, and then your response.</b>  21 <b>Correct?</b>  22 A. There is an e-mail, yes, telling us to have the  23 overtime turned in. And there's an overtime  24 sheet, yes.  25 <b>Q. Right. So I'm looking at, Cindy on Friday, May</b></p>

<p style="text-align: right;">Page 93</p> <p>1 22nd, 10:53 a.m., she sent an e-mail, "Do to the  2 holiday on Monday, Bob will be processing the  3 payroll this weekend. Please have all OT to me  4 by 1 p.m. today."  5 A. Uhm-hum.  6 Q. I assume, because it's May 22nd, the following  7 Monday was going to be Memorial Day weekend?  8 A. I'll assume so.  9 Q. Then you responded, time sheet for week ending  10 5/23 and you enclosed this form with some  11 additional hours, correct?  12 A. Correct.  13 Q. Were you told at any point that it was  14 inappropriate for you to have responded or  15 included this time sheet or submitted it?  16 A. No. No.  17 Q. And Cindy, you know, when she was sending out to  18 people, to turn in their OT, who are all of the  19 people who are on this list? Who is Chris  20 wealth?  21 A. These are all the showroom design staff or  22 attendants.  23 Q. And you were included in there on her  24 specifically requesting you to turn in any OT you  25 had, correct?</p>	<p style="text-align: right;">Page 95</p> <p>1 A. Uhm-hum.  2 Q. "Yes"?  3 A. Yes. I'm sorry.  4 Q. That's okay, it's easy to do.  5 Going forward, from this point forward, did  6 you have to get approval to schedule appointments  7 outside of regular showroom hours?  8 A. No. No designer was ever told to submit approval  9 for prior appointments outside of hours.  10 Q. Well, you were specifically told that here?  11 A. I was told that here.  12 Q. But then going forward, you did not do that?  13 A. That's correct.  14 Q. Did you ever have any discussions with anybody at  15 Active Plumbing -- and from a management point of  16 view, I'm looking at Cindy or Bryce or any of  17 your managers -- that you shouldn't need to  18 schedule as many appointments or do as much work  19 outside showroom hours and that you should be  20 able to get all of that work done during your  21 regularly scheduled showroom hours?  22 A. There were conversations about that and there  23 were conversations about needing more staff. I  24 was the only single staffed showroom attendant.  25 Q. During those discussions, did they tell you that</p>
<p style="text-align: right;">Page 94</p> <p>1 A. Correct.  2 - - - -  3 (Thereupon, Defendant's Exhibit 5,  4 email, 5/26/15 from c.barber to k.dupont,  5 was marked for purposes of identification.)  6 - - - -  7 BY MR. SELBY:  8 Q. This appears to be a continuation of that prior  9 e-mail chain, but these e-mails occurred, at the  10 top of the first page, on May 26th, 2015.  11 A. Okay.  12 Q. This is Cindy Barber. This is an e-mail that she  13 sent to you on Tuesday, May 26th, correct?  14 A. Uhm-hum.  15 Q. And she says, "Please do not work a Monday  16 without my prior OK."  17 A. Uhm-hum.  18 Q. Were you told that if you were going to work  19 hours outside of your regularly scheduled  20 showroom hours, that you had to receive prior  21 approval to those?  22 A. That came up in this e-mail, but, no, that was  23 never a policy.  24 Q. Okay. So this is the first time that was raised  25 with you?</p>	<p style="text-align: right;">Page 96</p> <p>1 you should be scheduling your appointments during  2 regular work hours as opposed to outside of your  3 regular showroom hours?  4 A. That was mentioned and my question was, do you  5 want me to tell the people -- that need to see me  6 at night -- no? Do you want me to tell people,  7 that I can't see them? And I was told No.  8 Q. Okay. But I think there's two issues here.  9 A. Okay.  10 Q. You have previously said that you were told you  11 weren't allowed to schedule appointments or you  12 were discouraged from scheduling appointments  13 while you were supposed to be in the showroom.  14 A. That's correct.  15 Q. So were you scheduling those appointments outside  16 of those regular business hours to accommodate  17 the customer or to accommodate Active Plumbing's  18 request that you only schedule those during times  19 that you weren't supposed to be scheduled in the  20 showroom?  21 A. It was a combination of the two.  22 Q. Okay. So after this e-mail, did you continue to  23 schedule appointments on Mondays?  24 A. I would have to look at the calendar to verify  25 that, I don't have the information.</p>



<p style="text-align: right;">Page 97</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. I did ask specifically if I should stop seeing</p> <p>3 these clients on this big job and I was told No.</p> <p>4 Do you want me to turn down people that can't</p> <p>5 meet during business hours; and I was told No.</p> <p>6 And I said then, What do you want me to do?</p> <p>7 <b>Q. Well, so, in other words, was going forward the</b></p> <p>8 <b>policy that, if you can see them during your</b></p> <p>9 <b>regular showroom hours, that is when you should</b></p> <p>10 <b>see them and only see them outside of those</b></p> <p>11 <b>hours, if those are the only hours that they</b></p> <p>12 <b>could meet?</b></p> <p>13 A. My first goal was to try to see them during</p> <p>14 business hours in the showroom.</p> <p>15 <b>Q. Okay.</b></p> <p>16 A. If the environment of what was needed and/or the</p> <p>17 staffing in the showroom or the customer's needs,</p> <p>18 needed me to see them outside of normal hours,</p> <p>19 then that's how it was decided to do that.</p> <p>20 <b>Q. And did you have to seek approval or talk to</b></p> <p>21 <b>somebody and say, Hey, I need to schedule this</b></p> <p>22 <b>one outside of regular hours because of X reason?</b></p> <p>23 A. That was never a company policy, ever.</p> <p>24 <b>Q. And that's not something you ever did?</b></p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 99</p> <p>1 A. That's incorrect. If you could rephrase that,</p> <p>2 it's got several layers to it so I just want to</p> <p>3 make sure I answer you clearly and correctly.</p> <p>4 <b>Q. Well, I'm looking at this and Cindy asked you to</b></p> <p>5 <b>turn in your overtime sheet. You turned in your</b></p> <p>6 <b>overtime sheet. That sheet had overtime hours</b></p> <p>7 <b>for two different Mondays, correct?</b></p> <p>8 A. That's correct.</p> <p>9 <b>Q. And then when you turned that in, on the next</b></p> <p>10 <b>Tuesday, at 8:45 a.m., the first thing back in</b></p> <p>11 <b>the office after that holiday weekend, she wrote</b></p> <p>12 <b>to you and said, "Please do not work a Monday</b></p> <p>13 <b>without my prior OK."</b></p> <p>14 A. You're correct there.</p> <p>15 <b>Q. Correct?</b></p> <p>16 <b>And so this was sent in response to you</b></p> <p>17 <b>sending over a time sheet in which you had put</b></p> <p>18 <b>down overtime hours for Mondays that you had not</b></p> <p>19 <b>received prior approval for, correct?</b></p> <p>20 MS. CHRISTY: Objection.</p> <p>21 A. I had not -- I didn't require prior approval to</p> <p>22 work Mondays.</p> <p>23 <b>Q. Had you had any discussions with Cindy regarding</b></p> <p>24 <b>payroll or overtime or any issues between the</b></p> <p>25 <b>time you sent in your time sheet for the week</b></p>
<p style="text-align: right;">Page 98</p> <p>1 <b>Q. Despite the fact that this e-mail said, not to do</b></p> <p>2 <b>it without Cindy's prior OK?</b></p> <p>3 A. That is correct. This is a reaction to a</p> <p>4 conversation that I had about all my overtime an</p> <p>5 not getting compensated for it.</p> <p>6 <b>Q. Well, it looks like this is actually going</b></p> <p>7 <b>back -- if you look at the beginning, this is the</b></p> <p>8 <b>e-mail from -- this is just a follow-up from 4.</b></p> <p>9 <b>If you look at the bottom on the first e-mail</b></p> <p>10 <b>here, is the one, you know, there's a holiday on</b></p> <p>11 <b>Monday, please have all your OT in.</b></p> <p>12 <b>And then you responded, time sheet for week</b></p> <p>13 <b>ending 5/23, which you turned in and had the time</b></p> <p>14 <b>sheet here which showed for these two weeks in</b></p> <p>15 <b>question, hours for Mondays.</b></p> <p>16 <b>And then in response to getting this, Cindy</b></p> <p>17 <b>wrote to you and said "Please do not work a</b></p> <p>18 <b>Monday without my prior OK," correct?</b></p> <p>19 A. Correct.</p> <p>20 <b>Q. Okay. So this wasn't in response to your</b></p> <p>21 <b>complaint about not being paid hours, this was in</b></p> <p>22 <b>response to you submitting a time sheet</b></p> <p>23 <b>requesting overtime hours, that hadn't previously</b></p> <p>24 <b>been approved, correct?</b></p> <p>25 MS. CHRISTY: Objection.</p>	<p style="text-align: right;">Page 100</p> <p>1 <b>ending 5/23 and her sending you this e-mail about</b></p> <p>2 <b>"Please do not work a Monday without my prior</b></p> <p>3 <b>OK"?</b></p> <p>4 A. Regarding this project, no.</p> <p>5 I was told to go ahead and do the Mondays how</p> <p>6 I needed to, by the other two leaders, which I</p> <p>7 believe would have been Brenda and Bryce.</p> <p>8 And the reaction to me sending in the</p> <p>9 overtime -- which was I was upset about -- to</p> <p>10 those two, was this, I sent it in; and the</p> <p>11 reaction back was, not to do this.</p> <p>12 Although the customer and the project people</p> <p>13 had already had the expectations that I would be</p> <p>14 there out on the west side and give them the</p> <p>15 focus I needed to, on Mondays, because of the</p> <p>16 size of this project.</p> <p>17 <b>Q. So Bryce and Brenda had previously approved you</b></p> <p>18 <b>working these Mondays on this particular project?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. Okay. So when Cindy said "Please do not work a</b></p> <p>21 <b>Monday without my prior OK," did you write back</b></p> <p>22 <b>to her and say, Bryce and Brenda had already</b></p> <p>23 <b>previously approved this?</b></p> <p>24 A. I did not. I must not have written it back.</p> <p>25 But I did clearly discuss that the project's</p>



<p style="text-align: right;">Page 101</p> <p>1 logistics and size required me -- at what we had  2 told the client we could do -- for me to be  3 available to them on Mondays, or I would have to  4 leave the showroom and drive an hour-and-a-half  5 each way, to be out there when I needed to be  6 there, during business hours, and I was a single  7 person covering a showroom.  8 <b>Q. And this is the Catawba project we're talking</b>  9 <b>about?</b>  10 A. This one particularly, yes.  11 <b>Q. Well, did you ever, in response to Cindy, when</b>  12 <b>she said "do not work a prior Monday without my</b>  13 <b>OK," did you tell her -- verbally or in</b>  14 <b>writing -- that Bryce and Brenda had previously</b>  15 <b>approved this working on a Monday?</b>  16 A. Absolutely.  17 <b>Q. Well, why didn't you put that in an e-mail?</b>  18 A. I had no idea I would have to back myself up like  19 this. I was trying to do a good job for a  20 company.  21 <b>Q. Okay.</b>  22 <b>MR. SELBY: Mark this.</b>  23 <b>- - -</b>  24 <b>(Thereupon, Defendant's Exhibit 6,</b>  25 <b>email same as exh.5 without k.dupont</b></p>	<p style="text-align: right;">Page 103</p> <p>1 A. I'm confused.  2 Could you rephrase that, please?  3 <b>Q. Well, wasn't Cindy telling you that, we want you</b>  4 <b>to schedule these during normal work hours --</b>  5 A. Uhm-hum.  6 <b>Q. -- and if you can't, come to me and get approval;</b>  7 <b>if the circumstances dictate, we'll allow it</b>  8 <b>under those circumstances?</b>  9 A. That was never the policy. We have a sign on our  10 door that tells clients that we have after hours  11 appointments available on the front door.  12 <b>Q. I understand.</b>  13 A. So, no, it was not during my training was I told  14 you get pre-approval for appointments, at all.  15 And on this project particularly, the  16 emphasis on me being available to them, because  17 of the size of it, it was a known that I would  18 try not to cut into the showroom hours, since it  19 was a single person manned showroom.  20 <b>Q. You say that was a "known," was that discussed</b>  21 <b>with anybody?</b>  22 A. It was discussed, yes.  23 <b>Q. Who was it discussed with?</b>  24 A. It was discussed with Bryce. It was discussed  25 with Brenda. My objections were made to Cindy.</p>
<p style="text-align: right;">Page 102</p> <p>1 <b>response, was marked for purposes of</b>  2 <b>identification.)</b>  3 <b>- - -</b>  4 <b>BY MR. SELBY:</b>  5 <b>Q. This appears to be the same e-mail as number 5</b>  6 <b>without your response. But it appears you</b>  7 <b>forwarded it on to an e-mail</b>  8 <b>krissydupont01@gmail.com.</b>  9 A. Uhm-hum.  10 <b>Q. Is that your personal e-mail?</b>  11 A. Yeah.  12 <b>Q. Why did you forward this e-mail, this particular</b>  13 <b>e-mail, on to your personal e-mail?</b>  14 A. In case I needed to explain to my client why I  15 would be not making appointments that they were  16 used to seeing and I hoped I didn't have to show  17 anybody that.  18 <b>Q. Did you ever show anybody it?</b>  19 A. No.  20 <b>Q. Did you ever explain to anybody, Look, our policy</b>  21 <b>is we try to schedule these during work hours,</b>  22 <b>and if you can't be available, we can make</b>  23 <b>special arrangements to report it then?</b>  24 <b>Is that essentially what Cindy was telling</b>  25 <b>you the policy should be?</b></p>	<p style="text-align: right;">Page 104</p> <p>1 It --  2 <b>Q. Well, where, when Cindy says "Don't work without</b>  3 <b>my prior OK," why aren't you saying to her, Well,</b>  4 <b>I had this prior okay, we've discussed this?</b>  5 A. Cindy wasn't my direct supervisor during the  6 start of all this. There was a lot of leadership  7 changes.  8 <b>Q. But Cindy is the one questioning you about it</b>  9 <b>right now.</b>  10 A. Yes, she is.  11 <b>Q. And you didn't offer her the explanation you just</b>  12 <b>offered me.</b>  13 A. When you're an employee, and you know you're  14 making somebody upset about overtime hours, it  15 can get a little intimidating.  16 <b>Q. Well, was she upset or was she just laying out to</b>  17 <b>you what the company's policy was here?</b>  18 A. This wasn't company policy.  19 <b>Q. Well --</b>  20 A. No where is it stated in the handbook for every  21 designer in this company to get prior approval  22 for after hours appointments.  23 <b>Q. Well, Cindy's role with the company was CEO,</b>  24 <b>correct?</b>  25 A. Right.</p>


<p style="text-align: right;">Page 105</p> <p>1 <b>Q. So if the CEO is telling you this is how I want</b>  2 <b>you to do these things, doesn't that sort of make</b>  3 <b>it company policy?</b>  4 MS. CHRISTY: Objection.  5 A. Since this is only written to me -- no, I don't  6 think it makes it company policy.  7 <b>Q. Did you believe you had to follow the CEO's</b>  8 <b>instructions?</b>  9 A. I believed all the designers had a set of rules  10 that were applied evenly to all of them and when  11 she sent me this letter, I responded by saying I  12 have a lot of clients only available on evenings.  13 I will discourage those. I'm trying to cover the  14 business.  15 <b>Q. So did, in fact, you discourage and did you cut</b>  16 <b>down, after this, on your appointments outside of</b>  17 <b>showroom hours?</b>  18 A. As I tried to do that, people that were knowing  19 that I would be able to stop and see their  20 projects, when they had questions in the evening  21 because they were professionals that worked  22 during the day, I got a lot of complaints about  23 how I wasn't available to them like I told them I  24 would be. So, yes, I tried and it was damaging  25 to me.</p>	<p style="text-align: right;">Page 107</p> <p>1 A. It strongly -- it came across that way because it  2 was something that was directed towards me and  3 not the entire design staff.  4 <b>Q. Well, but you were the one who had -- I mean,</b>  5 <b>this is in response to you turning in a time</b>  6 <b>sheet.</b>  7 This was in response to your time sheet that  8 you had turned in, correct?  9 A. That's correct.  10 <b>Q. And did you ever discuss with any of the other</b>  11 <b>showroom people, what they understood the company</b>  12 <b>policy to be, as to when you were supposed to</b>  13 <b>schedule appointments?</b>  14 A. There was no policy, so there was nothing to  15 discuss.  16 <b>Q. So there was no policy?</b>  17 A. There wasn't a spelled out, we need to get  18 permission to do appointments. We were supposed  19 to give good customer service, and in the  20 handbook, as it says, You may be required to work  21 overtime due to business needs.  22 <b>Q. Okay. And so did you ever discuss with any of</b>  23 <b>the showroom people, when you have to schedule</b>  24 <b>appointments outside of regular showroom hours,</b>  25 <b>do you get approval for that ahead of time or do</b></p>
<p style="text-align: right;">Page 106</p> <p>1 <b>Q. Okay.</b>  2 A. And, yes, I did try to cut back on it.  3 <b>Q. Well, and I look at this, Cindy never told you</b>  4 <b>not to do it, she told you to get prior approval</b>  5 <b>from her.</b>  6 So did you ever, when one of these people  7 said, I need to meet because I'm a professional,  8 I can't during the day, did you ever contact  9 Cindy and say, Hey, this person needs to meet at  10 night, this is why I'm doing this at night, and  11 explain that?  12 A. I did not at any point in time while a customer  13 was sitting in front of me to book an  14 appointment, call Cindy in Florida and say Can I  15 see Mrs. Jones at 5:30 tomorrow? No.  16 <b>Q. Did you do that with Bryce?</b>  17 A. No. It wasn't policy for any of the designers to  18 do that. This came about after I turned in these  19 hours.  20 <b>Q. So you felt that you just did not have to follow</b>  21 <b>this instruction?</b>  22 A. I did not. I did my best to curtail seeing  23 people outside of work hours, as I was  24 instructed. I felt that this was retaliatory.  25 <b>Q. Why do you feel it was retaliatory?</b></p>	<p style="text-align: right;">Page 108</p> <p>1 <b>you do it on your own; did you ever have that</b>  2 <b>discussion?</b>  3 A. Yeah.  4 <b>Q. Okay. What did they tell you their understanding</b>  5 <b>of what the process and procedure was?</b>  6 A. No one needed approval.  7 <b>Q. Did you ever discuss with them how often they</b>  8 <b>needed to make appointments outside of regular</b>  9 <b>showroom hours?</b>  10 A. I did not.  11 - - - -  12 (Thereupon, Defendant's Exhibit 7,  13 email, 6/8/15 from c.barber to showroom,  14 was marked for purposes of identification.)  15 - - - -  16 BY MR. SELBY:  17 <b>Q. This is an e-mail dated Monday, June 8th, 2015,</b>  18 <b>from Cindy Barber to all of the showroom people</b>  19 <b>regarding overtime. And it indicates here, "I</b>  20 <b>will need all OT reports before Monday mornings.</b>  21 <b>Payroll will be done 1st thing Monday."</b>  22 <b>What did you understand this e-mail to mean?</b>  23 A. Exactly what it says, that all overtime reports  24 are to be in before Monday morning because  25 payroll will be done first thing on Monday.</p>

<p style="text-align: right;">Page 109</p> <p>1 <b>Q. Did you interpret that, that you needed to turn</b>  2 <b>in your overtime reports by the time you left the</b>  3 <b>office on Saturday?</b>  4 A. I was considered exempt, so I didn't turn them in  5 every time. When I would win the -- I take that  6 back.  7 No. I did not think that I was supposed to  8 turn in all overtime reports before payroll on  9 Monday. It was never clear whether I was  10 eligible for overtime or not, that was the  11 constant issue.  12 <b>Q. Despite that, this was directed to you?</b>  13 A. It was directed to all showroom.  14 <b>Q. And that includes you. You got this e-mail,</b>  15 <b>correct?</b>  16 A. I did get the e-mail.  17 <b>Q. And did you respond to Cindy and say, I'm not</b>  18 <b>sure, should I be turning in all of my overtime,</b>  19 <b>I'm not really sure? I'm not clear on what my</b>  20 <b>status is?</b>  21 A. I don't recall. It was sent on a Monday at 8:37  22 in the morning, so I probably did not read it the  23 very day it was sent.  24 <b>Q. At any point, did you respond to this e-mail?</b>  25 A. I don't recall.</p>	<p style="text-align: right;">Page 111</p> <p>1 <b>when you weren't?</b>  2 A. If I would speak to somebody and then they would  3 say turn it in; okay.  4 If I would speak to other people and they say  5 you're not salary, it was kind of like a, "if we  6 feel like it, we'll let you turn it in basis."  7 And then when I decided to turn in the  8 Catawba stuff, based on that previous exhibit  9 that needed all the overtime turned in, the  10 reaction was, that, you know, prior approval will  11 be needed, blah, blah, blah.  12 So I didn't work and then decide, flimsy here  13 and there, that I would turn in or not turn in  14 hours. That would make zero financial sense to  15 anyone.  16 <b>Q. Well, you turned in hours after this e-mail</b>  17 <b>exchange regarding Catawba, correct?</b>  18 A. I probably did, yeah. I would have to see it.  19 <b>Q. So what made you decide to start sending them</b>  20 <b>again?</b>  21 A. At one point, I believe it might have been Bryce  22 that made a communication that we were going to  23 start getting overtime hours.  24 Not that he didn't say we were going to  25 start. He said, yes, I want to see your overtime</p>
<p style="text-align: right;">Page 110</p> <p>1 <b>Q. Did you ever have that discussion with Cindy and</b>  2 <b>say, Cindy, I feel like I'm getting mixed</b>  3 <b>messages, you're telling me to turn in my</b>  4 <b>overtime reports, but I'm being told I'm exempt,</b>  5 <b>what's the position? I want some clarity.</b>  6 A. Cindy, herself, told me at one point that  7 overtime didn't apply to me and then at another  8 point, she would get e-mails like this.  9 So, yes, there were very, very mixed  10 messages. Sometimes if you had overtime, you  11 might be requested, it may be paid in the form of  12 a bonus.  13 <b>Q. When did Cindy tell you that you were not</b>  14 <b>entitled to overtime?</b>  15 A. When we signed, I believe -- and this could be  16 not exactly correct -- the 2015 structure for our  17 goals to be met, which stated, all time worked  18 over would be paid one-and-a-half overtime.  19 I spoke to Bryce about it being stated on  20 that piece of paper and the next day, Cindy came  21 in to branch six and stated that that was written  22 on there but it did not necessarily apply.  23 <b>Q. With respect to those work hour change forms,</b>  24 <b>that we had identified previously, how did you</b>  25 <b>decide when you were submitting one of those and</b></p>	<p style="text-align: right;">Page 112</p> <p>1 hours turned in, later on in my employment.  2 <b>Q. And Cindy's e-mail, to be fair, doesn't say, We</b>  3 <b>don't pay you overtime; it was, We want you to</b>  4 <b>get your overtime approved before you work it.</b>  5 <b>Correct?</b>  6 A. The head of HR was the one that said they don't  7 pay overtime.  8 Cindy verbally told me that overtime didn't  9 apply to me, when I raised the question of the  10 2015 agreement.  11 <b>Q. But I'm talking about the e-mail that you had</b>  12 <b>referenced earlier.</b>  13 A. In writing? No. She did not put that in writing  14 in this e-mail.  15 <b>Q. In that e-mail the concern wasn't we don't pay</b>  16 <b>you overtime, it was you need to get approval</b>  17 <b>before you work this overtime.</b>  18 A. That e-mail says Do not work a Monday without my  19 prior OK. You need to schedule your appointments  20 during the days you work. You can change your  21 work schedule to how everyone else has it.  22 Everyone else works Monday through Friday, 40  23 hours with Saturday being overtime four hours.  24 So I would have been working my 40 hours and  25 my overtime was on the Monday that I was off. So</p>

<p style="text-align: right;">Page 113</p> <p>1 I'm not sure what the meaning of that -- it's</p> <p>2 always changing.</p> <p>3 I'm not trying to be elusive, I'm just trying</p> <p>4 to figure out how to answer you correctly.</p> <p>5 <b>Q. Okay.</b></p> <p>6 <b>MR. SELBY: Mark this.</b></p> <p>7 - - - -</p> <p>8 <b>(Thereupon, Defendant's Exhibit 8,</b></p> <p>9 <b>email, 8/31/15 from c.barber to showroom,</b></p> <p>10 <b>was marked for purposes of identification.)</b></p> <p>11 - - - -</p> <p>12 <b>BY MR. SELBY:</b></p> <p>13 <b>Q. This is an August 31st, 2015 e-mail from Cindy</b></p> <p>14 <b>regarding payroll indicating that now all</b></p> <p>15 <b>requests are supposed to go to Bryce instead of</b></p> <p>16 <b>her, correct?</b></p> <p>17 A. Correct.</p> <p>18 <b>Q. From that point forward, did you start then</b></p> <p>19 <b>submitting, when you did submit them, overtime</b></p> <p>20 <b>requests to Bryce?</b></p> <p>21 A. I can't say with a hundred percent accuracy, but</p> <p>22 I assume so, yes.</p> <p>23 <b>Q. Did you ever have the discussion with Bryce, now</b></p> <p>24 <b>that he was the person who was overseeing this,</b></p> <p>25 <b>the question regarding the mixed messages and</b></p>	<p style="text-align: right;">Page 115</p> <p>1 little less independent and it started to be a</p> <p>2 reflection of we don't pay overtime or we do pay</p> <p>3 overtime.</p> <p>4 It just -- and then when I would ask too many</p> <p>5 questions and I couldn't pin him down, like, with</p> <p>6 the 2015 agreement, Cindy showed up the next day</p> <p>7 to reiterate what it exactly meant, which meant</p> <p>8 that it didn't really mean what it said on the</p> <p>9 paper.</p> <p>10 <b>Q. So when did you have this discussion with Bryce?</b></p> <p>11 A. I believe Brenda left the company in April of</p> <p>12 2015, maybe three months or so before this</p> <p>13 e-mail, without exact certainty, but in that part</p> <p>14 of the year in 2015. I'm pretty sure it was in</p> <p>15 April. I'd have to check records to verify it.</p> <p>16 <b>Q. April of 2015?</b></p> <p>17 A. I'm almost positive of it.</p> <p>18 <b>MR. SELBY: Let's mark this.</b></p> <p>19 - - - -</p> <p>20 <b>(Thereupon, Defendant's Exhibit 9, email, 3/4/16</b></p> <p>21 <b>from b.barber to multiple people, was marked for</b></p> <p>22 <b>purposes of identification.)</b></p> <p>23 - - - -</p> <p>24 <b>BY MR. SELBY:</b></p> <p>25 <b>Q. I've presented you an e-mail dated Friday, March</b></p>
<p style="text-align: right;">Page 114</p> <p>1 <b>whether or not you were entitled to overtime or</b></p> <p>2 <b>not?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. When did you have that discussion with Bryce?</b></p> <p>5 A. The day that Brenda Schultz had left.</p> <p>6 Actually Bryce talked to me on the phone</p> <p>7 from, I'm going to guess, his car or somewhere, I</p> <p>8 was at the desk in my office.</p> <p>9 The showroom was closed. We were done for</p> <p>10 the day. I think we talked on the phone for at</p> <p>11 least 45 minutes to an hour.</p> <p>12 I voiced my complaints. He begged me not to</p> <p>13 leave. I expressed my concerns about the</p> <p>14 overtime that's not paid, the constant changing</p> <p>15 of leadership.</p> <p>16 He said people should get paid the hours that</p> <p>17 they work, I'm here to help. Don't leave, et</p> <p>18 cetera, et cetera, et cetera. That was about an</p> <p>19 hour of time off the clock, that I didn't even</p> <p>20 turn in.</p> <p>21 And then as he fell more into his position,</p> <p>22 to take over in the leadership of this showroom,</p> <p>23 the only part that I'm concerned with is, you</p> <p>24 know, the showroom staffing; then his sense of</p> <p>25 whether overtime should get paid or not, was a</p>	<p style="text-align: right;">Page 116</p> <p>1 <b>4th, 2016 at 12:35 p.m. from Bryce Barber and</b></p> <p>2 <b>this is to all of the showroom people</b></p> <p>3 <b>individually. Correct?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. And so this is clarifying on when those overtime</b></p> <p>6 <b>reports need to be submitted. Correct?</b></p> <p>7 A. It appears so, yes.</p> <p>8 <b>Q. And it says here, if you work on Saturday, then</b></p> <p>9 <b>you should send it to him then, correct?</b></p> <p>10 A. Yes.</p> <p>11 <b>MR. SELBY: I think I'm close to</b></p> <p>12 <b>being done.</b></p> <p>13 <b>Can we take five minutes?</b></p> <p>14 <b>MS. CHRISTY: Sure.</b></p> <p>15 - - - -</p> <p>16 <b>(Thereupon, a discussion was had off</b></p> <p>17 <b>the record.)</b></p> <p>18 - - - -</p> <p>19 <b>BY MR. SELBY:</b></p> <p>20 <b>Q. I have a few follow-up questions. I think you</b></p> <p>21 <b>had indicated when you talked about the internal</b></p> <p>22 <b>calendar system that kept those records --</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. -- would you be the person who would input all of</b></p> <p>25 <b>the stuff in the system regarding your</b></p>

<p style="text-align: right;">Page 117</p> <p>1 <b>appointments and so forth?</b></p> <p>2 A. No.</p> <p>3 <b>Q. Who would input all of that information?</b></p> <p>4 A. The corporate upper echelon and I'm only saying</p> <p>5 that because I'm not sure who all had the powers</p> <p>6 to do this.</p> <p>7 <b>Q. Right.</b></p> <p>8 A. But there were scheduling things put into your</p> <p>9 calendar by them, occasionally, not on a regular</p> <p>10 basis.</p> <p>11 <b>Q. Right.</b></p> <p>12 A. But they did have privy to write into other</p> <p>13 people's calendars.</p> <p>14 The daily upkeep of your appointments, so</p> <p>15 that the whole world can see what you're doing,</p> <p>16 was your responsibility.</p> <p>17 <b>Q. So if you would schedule, you know, whatever you</b></p> <p>18 <b>had on the schedule that day, you know, you would</b></p> <p>19 <b>fill that in?</b></p> <p>20 A. Correct.</p> <p>21 <b>Q. And if you were going to, you know, if you had a</b></p> <p>22 <b>customer who you were meeting with at 7:00 that</b></p> <p>23 <b>night, you would fill in so and so and what other</b></p> <p>24 <b>information would you put in to there?</b></p> <p>25 A. Typically, it would be, if it was the first</p>	<p style="text-align: right;">Page 119</p> <p>1 is that that be done. And I would like to</p> <p>2 hold open the deposition just to ask her</p> <p>3 questions about -- I mean, if you're going</p> <p>4 to have this reconstruction of these</p> <p>5 specific hours -- which it sounds like she</p> <p>6 can do -- I want to have the opportunity to</p> <p>7 ask her about that. And if it hasn't been</p> <p>8 done yet, I can't really do that today.</p> <p>9 MS. CHRISTY: I have no objection</p> <p>10 to, once you produce the full records --</p> <p>11 and if you want an explanation as to why</p> <p>12 they're incomplete, if you could get them</p> <p>13 out, we could show you.</p> <p>14 MR. SELBY: I don't have them here</p> <p>15 with me, but we can -- I'll go back and</p> <p>16 let's you and I talk about it this week.</p> <p>17 MS. CHRISTY: It would be best if</p> <p>18 she were with us, because --</p> <p>19 MR. SELBY: Do you have that disk?</p> <p>20 MS. CHRISTY: It's not on the</p> <p>21 disk. It was papers that you produced.</p> <p>22 Do you have them -- can we go off</p> <p>23 the record?</p> <p>24 MR. SELBY: We can go off.</p> <p>25 - - -</p>
<p style="text-align: right;">Page 118</p> <p>1 appointment meeting them at their house for the</p> <p>2 first time, and hopefully the only time, it would</p> <p>3 be their name, their address, their phone number,</p> <p>4 first meeting kitchen designer, something, some</p> <p>5 kind of thing so that when I looked at it,</p> <p>6 because I set it last week, I would know, you</p> <p>7 know. And then I would kind of estimate how long</p> <p>8 I would be there and change it, if I needed to,</p> <p>9 when I got back.</p> <p>10 <b>Q. So you've indicated here, today, that through the</b></p> <p>11 <b>mileage records and through those calendar</b></p> <p>12 <b>records, you would be able to, at least partially</b></p> <p>13 <b>reconstruct the number of overtime hours you</b></p> <p>14 <b>would have, at least as they reflected those</b></p> <p>15 <b>particular transactions.</b></p> <p>16 A. Yeah, a very fair percentage of it actually.</p> <p>17 <b>Q. Okay. I know we had put out an interrogatory</b></p> <p>18 <b>where we had specifically asked for those hours</b></p> <p>19 <b>and probably your responses came back before we</b></p> <p>20 <b>had produced all these documents.</b></p> <p>21 <b>But you'd be able to take these records and</b></p> <p>22 <b>go through and put together the best</b></p> <p>23 <b>reconstruction you could, correct?</b></p> <p>24 A. If they were complete, absolutely.</p> <p>25 MR. SELBY: What I'd like to ask</p>	<p style="text-align: right;">Page 120</p> <p>1 (Thereupon, a discussion was had off</p> <p>2 the record.)</p> <p>3 - - -</p> <p>4 MR. SELBY: We've gone through the</p> <p>5 records that relate to the calendars that</p> <p>6 we produced and the expansion of that.</p> <p>7 I understand the issue you've had.</p> <p>8 We're going to go back and double-check.</p> <p>9 We see that there are some expansions there</p> <p>10 and some things that haven't been expanded.</p> <p>11 We'll go back and expand every</p> <p>12 page that we can and we'll resubmit all of</p> <p>13 those records to you so that you have</p> <p>14 everything that we have.</p> <p>15 Then, you know, once you have sort</p> <p>16 of reconstructed your time and all of those</p> <p>17 hours, we can reconvene her deposition to</p> <p>18 give me an opportunity to question on those</p> <p>19 specific calculations; is that fair?</p> <p>20 MS. CHRISTY: That is fair. We'll</p> <p>21 agree to reproduce her for limited inquiry</p> <p>22 with respect to, number one, the hours that</p> <p>23 she worked, based on those calendaring</p> <p>24 events and any questions that relate</p> <p>25 specific to those appointments related to</p>



<p style="text-align: right;">Page 121</p> <p>1 the calendaring events.  2 MR. SELBY: Right.  3 MS. CHRISTY: Beyond that, we will  4 object to any further questioning.  5 Good?  6 MR. SELBY: I want to make sure,  7 if you're going to do some specific  8 calculation of damages that I can have the  9 opportunity to understand that, because to  10 this point, it's been based on  11 generalities.  12 MS. CHRISTY: And I will tell you  13 that, in the event that we actually -- that  14 I actually perform calculations with  15 respect to what her damages are based on  16 those records, that I would be happy to  17 share those with you for purposes of  18 attempting to resolve the matter.  19 MR. SELBY: I understand. I just  20 want to understand how she is coming to  21 those numbers and supporting all of that.  22 MS. CHRISTY: And that's fair.  23 MR. SELBY: Okay.  24 MS. CHRISTY: Are you done?  25 MR. SELBY: I'm done for today.</p>	<p style="text-align: right;">Page 123</p> <p>1  2 CERTIFICATE  3 The State of Ohio, ) SS:  4 County of Lake.)  5  6 I, Lynn A. Konitsky, RMR, CRR, Notary  7 Public within and for the State of Ohio, duly  8 commissioned and qualified to administer oaths  9 and to take and certify depositions, do hereby  10 certify that the above-named witness was by me  11 first duly sworn to testify the truth, the whole  12 truth, and nothing but the truth; that the  13 testimony as above-set forth was reduced to  14 writing by me by means of stenotypy, and was  15 later transcribed into typewriting under my  16 direction; that this is a true record of the  17 testimony given by the witness; that said  18 deposition was taken at the aforementioned time,  19 date and place, pursuant to notice or  20 stipulations of counsel.  21 I further certify I am not a relative or  22 employee or attorney of any of the parties,  23 or a relative or employee of such attorney  24 or financially interested in this action;  25 that I am not under a contract as defined in  Civil Rule 28(D).    IN WITNESS WHEREOF, I have hereunto set my  hand and seal of office, at Cleveland, Ohio, this  8th day of July, A.D. 2017.      Lynn A. Konitsky, Notary Public, State of Ohio  Waters Reporting Services  38385 Wood Road, Willoughby, Ohio 44094  My commission expires February 8, 2020</p>
<p style="text-align: right;">Page 122</p> <p>1 MS. CHRISTY: She will read. So  2 in the event that the deposition is  3 ordered, if you could just let us know and  4 then she can come to your office and  5 review.  6 - - - -  7 (Deposition concluded at 1:50 p.m.)  8 - - - -  9 (Signature Not Waived.)  10  11  12  13 _____  14 Kristine DuPont  15  16  17  18  19  20  21  22  23  24  25</p>	



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Transcript of the Testimony of  
**Kristine A. DuPont**

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**Date:** July 14, 2017

**Case:** Kristine DuPont v. Active Plumbing Supply Co.

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<p style="text-align: right;">Page 124</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO - EASTERN DIVISION KRISTINE DuPONT, Plaintiff,  -vs- JUDGE NUGENT CASE NO. 1:16CV2363 VOLUME II</p> <p>ACTIVE PLUMBING SUPPLY CO.,  Defendant. - - - -</p> <p>Continued Deposition of KRISTINE A. DuPONT, taken as if upon cross-examination before Lynn A. Konitsky, a Certified Realtime Reporter and Notary Public within and for the State of Ohio, at the offices of Chastity L. Christy, Esq., 920 Rockefeller Building, 614 W. Superior Avenue, Cleveland, Ohio, at 10:55 a.m. on Friday, July 14, 2017, pursuant to notice and/or stipulations of counsel, on behalf of the Defendant in this cause. - - - -</p> <p style="text-align: center;">WATERS REPORTING SERVICES Court Reporters 38385 Wood Road Willoughby, Ohio 44094 (440) 269-198022</p>	<p style="text-align: right;">Page 126</p> <p>1 2 W I T N E S S I N D E X 3 PAGE 4 CROSS-EXAMINATION KRISTINE A. DuPONT 5 BY MR. SELBY 127 6 E X H I B I T I N D E X 7 EXHIBIT MARKED 8 Defendant's Exhibit 10 128 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 125</p> <p>1 APPEARANCES: 2 Chastity L. Christy, Esq. The Lazzaro Law Firm, LLC 3 920 Rockefeller Building 614 W. Superior Avenue 4 Cleveland, Ohio 44113 (216) 696-5000, chastity@lazzarolawfirm.com 5 6 On behalf of the Plaintiff; 7 8 Richard Selby, Esq. Jo A. Tatarko, Esq. 9 Dworken &amp; Bernstein Co., L.P.A. 1468 W. 9th Street 10 Suite 135 Cleveland, Ohio 44113 11 (216) 861-4211, rselby@dworkenlaw.com 12 jtatarko@dworkenlaw.com 13 14 On behalf of the Defendant. 15 16 ALSO PRESENT: 17 Cynthia Barber 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 127</p> <p>1 KRISTINE A. DuPONT, of lawful age, called by 2 the Defendant for the purpose of 3 cross-examination, as provided by the Rules of 4 Civil Procedure, being by me first duly sworn, as 5 hereinafter certified, deposed and said as 6 follows: 7 CROSS-EXAMINATION OF KRISTINE A. DuPONT 8 BY MR. SELBY: 9 <b>Q. Ms. DuPont, we are here for the continuation of</b> 10 <b>your deposition that we had done a couple months</b> 11 <b>ago. I will remind you, you are still under</b> 12 <b>oath.</b> 13 <b>The same instructions that I gave you before,</b> 14 <b>yes or no, or verbal responses and if you have</b> 15 <b>any questions or you're not sure what I'm asking,</b> 16 <b>please make sure and I'll clarify.</b> 17 <b>Again, there's no medical problem,</b> 18 <b>medications, anything else that would interfere</b> 19 <b>with your ability to give a deposition today,</b> 20 <b>correct?</b> 21 A. No. 22 MR. SELBY: Let's mark -- I think 23 we're at Defendant's Exhibit 10. 24 MS. CHRISTY: Are you going to use 25 any of the previous ones?</p>

<p style="text-align: right;">Page 128</p> <p>1 MR. SELBY: I might. I'm going to  2 look back at them. I may. If I do --  3 MS. CHRISTY: Give me a heads-up  4 and I'll go get them.  5 MR. SELBY: Okay.  6 - - - -  7 (Thereupon, Defendant's Exhibit 10  8 was marked for purposes of identification.)  9 - - - -  10 BY MR. SELBY:  11 <b>Q. So, Ms. DuPont, when we ended your deposition the</b>  12 <b>last time the understanding was you were going to</b>  13 <b>go back and go through all of the records that</b>  14 <b>had been provided so far to be able to recreate,</b>  15 <b>as best as you could, the hours that you believed</b>  16 <b>that you had worked that you had not been</b>  17 <b>compensated for. Correct?</b>  18 A. Yes.  19 <b>Q. Okay. And I believe Exhibit 10 is the result of</b>  20 <b>those efforts on your behalf?</b>  21 A. It's the result of the mileage charts that I had  22 available to me and the daily planner.  23 <b>Q. Okay. Can you go through and just describe for</b>  24 <b>me the process that you went through in putting</b>  25 <b>this together, how did you do this, and then I'll</b></p>	<p style="text-align: right;">Page 130</p> <p>1 planner that could not be expanded, therefore,  2 the time that I had on the planner was there, but  3 the detail of it was not.  4 <b>Q. Okay.</b>  5 A. There were times, on the daily planner, where I  6 had come in early to get things prepared for  7 something, they didn't necessarily involve me  8 traveling to a house off site, they were just  9 hours in the showroom preparing for a meeting or  10 that day, sometimes coming in early would help me  11 keep up.  12 <b>Q. How did you determine how long -- and I assume</b>  13 <b>most of these are visits where you had some</b>  14 <b>appointment outside of the showroom?</b>  15 A. Correct.  16 <b>Q. Okay. How did you determine, with respect to</b>  17 <b>these, how long you were at the particular site</b>  18 <b>or the visit?</b>  19 A. On some of the planner entries, the actual hours,  20 I kind of adjusted to remind myself.  21 Recollections, a lot of it just based on what the  22 appointment was and recalling, oddly enough, when  23 you do -- when you go through this, you start  24 remembering, like, that visit was a long one and  25 I remember what we went over.</p>
<p style="text-align: right;">Page 129</p> <p>1 <b>probably have a few questions on some of the</b>  2 <b>things in here. But if you could explain to me</b>  3 <b>how you put this together.</b>  4 A. I looked at the daily planner that was expanded  5 with more detailed information and the  6 appointments that were listed on there, and  7 included those in here and I also went through my  8 mileage reimbursement paper that I had -- I  9 didn't have every one -- but the ones that I had,  10 which showed appointments on completely closed  11 days, Sundays, Mondays, and things like that.  12 Both of those articles supplied me with  13 appointment information that I put this together  14 with, listed by day, so it would be easy to read.  15 <b>Q. Okay. As I look at some of these -- on most of</b>  16 <b>these, you have a category that is listed as the</b>  17 <b>Reason. I take it that's the appointment and so</b>  18 <b>forth, like whoever's house you were going to,</b>  19 <b>the name of the ultimate customer, that type of</b>  20 <b>thing.</b>  21 A. Yeah. When it was listed on those items, I  22 transferred it to this column, so there was some  23 type of relationship.  24 <b>Q. Okay. Now, how about the ones that were blank?</b>  25 A. The blank -- there were some days on the daily</p>	<p style="text-align: right;">Page 131</p> <p>1 So 90 percent of it is based on the planner  2 and the mileage, obviously supplemented  3 appointments that I didn't have on it; if I've  4 answered you correctly.  5 <b>Q. And maybe, you know, this might help.</b>  6 <b>MR. SELBY: It might help if you</b>  7 <b>go grab the exhibits because I think I know</b>  8 <b>what she's talking about, but I want to</b>  9 <b>make sure we're on the same page.</b>  10 <b>MS. CHRISTY: Okay.</b>  11 <b>Q. So I'm looking at Plaintiff's Exhibit 28 which is</b>  12 <b>the planner and I'll just start with the first</b>  13 <b>one because it's the easiest.</b>  14 <b>So I'm looking here at 6/28 and that lists</b>  15 <b>that as a Saturday. The hours, this would have</b>  16 <b>shown -- you're saying that you worked from 9 to</b>  17 <b>3:30?</b>  18 A. That's correct.  19 <b>Q. And this was a Saturday. So your normal hours</b>  20 <b>would have been 9 to 1?</b>  21 A. That's correct.  22 <b>Q. And you were going to this house visit and so</b>  23 <b>this lasted till 3:30. There's 2.5 hours.</b>  24 <b>When I look at the expanded schedule, I see</b>  25 <b>1:45, Andreadelporte, site visit and measure. So</b></p>

<p style="text-align: right;">Page 132</p> <p>1 this would have been -- and I'll show you -- this</p> <p>2 would have been one where you would have just</p> <p>3 estimated knowing how long it took you to drive</p> <p>4 there and where it was, how long it would have</p> <p>5 taken to get it done?</p> <p>6 A. I actually remember this particular lady.</p> <p>7 Yes. The 1:45 appointment was made because</p> <p>8 the showroom closed at 1.</p> <p>9 Q. Okay.</p> <p>10 A. Her location was in Sandusky which was proximal</p> <p>11 to where I lived.</p> <p>12 Q. Okay.</p> <p>13 A. So I just took it at the 3:30 when we concluded</p> <p>14 our appointment because I was done for the day,</p> <p>15 instead of driving back to Active.</p> <p>16 Q. So when you would do these off-site visits and</p> <p>17 you're calculating the amount of overtime, would</p> <p>18 you include, as part of -- for example, if this</p> <p>19 appointment was at 1:45, you were including the</p> <p>20 travel time from Active Plumbing to wherever you</p> <p>21 were going?</p> <p>22 A. That's correct.</p> <p>23 Q. When the appointment was over, were you including</p> <p>24 any travel time after the appointment or would</p> <p>25 have this just been, like, 3:30's when the</p>	<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. And I'm looking here at the entry, you</p> <p>2 would have gotten that because, as I'm looking at</p> <p>3 this here, this would be the 7/12 entry, you had</p> <p>4 written over here 7 to 1?</p> <p>5 A. Uhm-hum.</p> <p>6 Q. So that would have indicated to you that you had</p> <p>7 worked from 7 to 1?</p> <p>8 A. Yes.</p> <p>9 Q. I know that we had discussed during your first</p> <p>10 deposition that at the time you were working for</p> <p>11 Active Plumbing, you were still doing the</p> <p>12 occasional side job in your own personal design</p> <p>13 business for things that were unrelated to Active</p> <p>14 Plumbing business, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ever put any of those appointments on</p> <p>17 this planner, just so you'd know that you had</p> <p>18 them planned?</p> <p>19 A. No.</p> <p>20 Q. So none of those -- none of the things that</p> <p>21 showed up on this planner would have been related</p> <p>22 to your personal business and the work that you</p> <p>23 were doing there, correct?</p> <p>24 A. Not related to my personal business.</p> <p>25 Q. Okay. These would have all been -- everything</p>
<p style="text-align: right;">Page 133</p> <p>1 appointment is over, then you went home?</p> <p>2 A. That's typically how I kept track. I didn't</p> <p>3 charge for hours spent for me to go home --</p> <p>4 Q. Okay.</p> <p>5 A. -- because you go home at the end of the day.</p> <p>6 Q. Did you ever have any off-site appointments that</p> <p>7 resulted in overtime where you would have gone</p> <p>8 back to Active Plumbing?</p> <p>9 A. I can't recall in detail, but that would not have</p> <p>10 been abnormal in some cases, if the appointment</p> <p>11 were located in an area by Active and I needed to</p> <p>12 go back and possibly drop off samples before I</p> <p>13 went to my home.</p> <p>14 Q. Were there any circumstances, you can remember in</p> <p>15 putting this together, where you included any</p> <p>16 travel time going back to Active?</p> <p>17 A. I can't answer that, I don't recall specifically.</p> <p>18 Q. So I'm looking at the entry here for 7/12/14 and</p> <p>19 this shows that you worked from 7 till 1,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. So that would have been two hours early?</p> <p>23 A. Correct.</p> <p>24 Q. Was that two hours in the shop or at --</p> <p>25 A. It would have been at the shop.</p>	<p style="text-align: right;">Page 135</p> <p>1 that shows up on this list, would have been an</p> <p>2 Active Plumbing project?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Did all of these result in an actual job</p> <p>5 or were there occasions where you would go out,</p> <p>6 do the measurements, put together a bid and then</p> <p>7 people would end up not buying anything?</p> <p>8 A. These are not a hundred percent materialized</p> <p>9 projects. A very, very, very large portion of</p> <p>10 them are.</p> <p>11 Q. Okay. As far as identifying these -- and I want</p> <p>12 to make sure I understand things right, and I</p> <p>13 want to sort of categorize some of these</p> <p>14 customers differently.</p> <p>15 There would be some customers who were just,</p> <p>16 you know, the homeowner who walked in off the</p> <p>17 street who wanted to buy something to put in</p> <p>18 their bathroom or their kitchen or so forth,</p> <p>19 where they would buy things directly from Active</p> <p>20 Plumbing, correct?</p> <p>21 A. Correct.</p> <p>22 Q. There would also be situations where a contractor</p> <p>23 was hired to do a bathroom or kitchen remodel for</p> <p>24 a customer, and they were a contractor who would</p> <p>25 buy their materials or would work through Active</p>

<p style="text-align: right;">Page 136</p> <p>1 <b>Plumbing. So there were also jobs that you would</b>  2 <b>get through those contractor customers of Active</b>  3 <b>Plumbing?</b>  4 A. Correct.  5 <b>Q. When you would list, you know, the reason out</b>  6 <b>here, were you listing who might ultimately be</b>  7 <b>the customer or were you listing the house you</b>  8 <b>would go to?</b>  9 A. The project I was going to.  10 <b>Q. Okay. So if, you know, Acme Contracting hired</b>  11 <b>you to do something at the Jones house, you would</b>  12 <b>probably list this as, like the Jones visit?</b>  13 A. Correct.  14 <b>Q. But the internal records of Active Plumbing would</b>  15 <b>probably show a bill going to Acme Contracting,</b>  16 <b>as opposed to the Joneses?</b>  17 A. If that's the way the contractor had it set up.  18 <b>Q. There were some times where the contractors would</b>  19 <b>have the homeowners billed directly?</b>  20 A. There were times, yes.  21 <b>Q. And some times that would just go through the</b>  22 <b>contractor and then they'd rebill it?</b>  23 A. Yes.  24 <b>Q. So the names on this list aren't necessarily</b>  25 <b>going to coincide with necessarily an invoice?</b></p>	<p style="text-align: right;">Page 138</p> <p>1 transaction would be.  2 So if it was not purchased that day, there  3 would be some follow-up to see if there was still  4 interest in them purchasing it and then I'm not  5 quite sure how bids were cleared out of the  6 system, I don't recall what that process was.  7 <b>Q. What were your normal hours on Tuesday through</b>  8 <b>Friday?</b>  9 A. 8 to 5.  10 <b>Q. Okay. Without a lunch or with a lunch?</b>  11 A. Correct, without.  12 <b>Q. Did you ever take lunch?</b>  13 A. No. Not go out and have lunch. I would eat  14 through my lunch at my desk.  15 <b>Q. So looking back at the exhibits that we had</b>  16 <b>talked about last time, it looks like, from your</b>  17 <b>pay records, the first time that you turned in</b>  18 <b>any overtime would have been in connection with</b>  19 <b>the August 7th pay date, which it looks like it's</b>  20 <b>this pay sheet.</b>  21 So I'm looking down here, that would have  22 been -- there were a number of entries here in  23 the first, sort of month-and-a-half or two months  24 that you worked there, where you hadn't turned in  25 any overtime.</p>
<p style="text-align: right;">Page 137</p> <p>1 A. In some cases that's correct.  2 <b>Q. And, obviously, in situations where they ended up</b>  3 <b>not buying anything, there wouldn't be an</b>  4 <b>invoice?</b>  5 A. That is correct. We did institute some fees for  6 kitchen design work when nothing was purchased.  7 <b>Q. Okay.</b>  8 A. Because that was a necessary thing to control  9 people from trying to get free design work --  10 <b>Q. Right.</b>  11 A. -- so that was helpful.  12 <b>Q. When you put together, you know, a proposal or a</b>  13 <b>bid to go out to somebody and they ended up not</b>  14 <b>buying it, what did you do with those? How were</b>  15 <b>those maintained? Was there a separate file?</b>  16 <b>Did you hold on to those, did you throw them</b>  17 <b>away, how did that work?</b>  18 A. They typically were all kept in Active's system.  19 <b>Q. Okay.</b>  20 A. I think it's called eclipse or E-term.  21 So you would create it and then if the client  22 came in -- whoever it is -- and you would show  23 them their total of their parts or whatever they  24 were buying and then at that point in time, they  25 would make a deposit or whatever their</p>	<p style="text-align: right;">Page 139</p> <p>1 <b>Do you recall what prompted you to turn in</b>  2 <b>overtime in connection with that August 7th, 2014</b>  3 <b>payroll whereas you hadn't turned it in for some</b>  4 <b>of these earlier June and July dates?</b>  5 A. To the best of my recollection there had been  6 discussions about whether I was available, or  7 able to receive overtime pay.  8 So at this time period, there was a very  9 large project that went on and I believe Brenda  10 Schultz was my supervisor at that time and it was  11 understood, through the customer, that I would be  12 available to basically be very, very hands-on  13 through the process of this project as it was  14 very detailed and involved with several trades  15 that were customers of Active as well as the  16 homeowner who was buying major portions of it  17 directly herself. And that may have been that  18 week that I turned that in.  19 And to the best of my recollection, that is  20 what prompted the very first overtime. It would  21 have been become impossible to manage that  22 project, as far as making sure everyone got the  23 materials and it was understandable to them.  24 <b>Q. What was that large project?</b>  25 A. It was The Sunset -- Our Sunset Place, I'm sorry.</p>

<p style="text-align: right;">Page 140</p> <p>1 It was a bed and breakfast on Catawba Island.</p> <p>2 <b>Q. I think that's one we had talked about at your</b></p> <p>3 <b>previous deposition?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. Looking at this list that you had put together as</b></p> <p>6 <b>Defendant's Exhibit 10, which of these would have</b></p> <p>7 <b>related to that?</b></p> <p>8 A. Which appointments?</p> <p>9 <b>Q. Yeah.</b></p> <p>10 A. Anything labeled as Erwin would have been</p> <p>11 directly related to that project.</p> <p>12 <b>Q. Okay.</b></p> <p>13 A. There would have been hours spent at suppliers,</p> <p>14 as well, where it shows some times coming in</p> <p>15 early. There was a lot of work to do for that</p> <p>16 project.</p> <p>17 At one point I was working at home to get the</p> <p>18 initial bid for the products list together and</p> <p>19 was given an external way to link to our system</p> <p>20 from my house.</p> <p>21 <b>Q. Okay.</b></p> <p>22 A. I don't remember the name of that program, but it</p> <p>23 was so large, I dedicated an entire weekend just</p> <p>24 to coming up with a bid for the parts for this</p> <p>25 thing.</p>	<p style="text-align: right;">Page 142</p> <p>1 for them.</p> <p>2 So I took exactly how my planner was labeled</p> <p>3 and my mileage sheet was labeled to formulate</p> <p>4 this spreadsheet.</p> <p>5 <b>Q. And when you came in early, you reflected that on</b></p> <p>6 <b>your planner, correct?</b></p> <p>7 A. Most of the time.</p> <p>8 <b>Q. And I see some more on Erwin.</b></p> <p>9 <b>If you look at the second page, in March and</b></p> <p>10 <b>April of '15, it looks like there's some time --</b></p> <p>11 A. Correct.</p> <p>12 <b>Q. -- through into May.</b></p> <p>13 <b>And would have these all been site visits out</b></p> <p>14 <b>to the location?</b></p> <p>15 A. A good portion of them.</p> <p>16 On 4/20, however, there were Homeworks and</p> <p>17 Erwin. There were times where I would have to</p> <p>18 meet the contractor at his office as well, in</p> <p>19 Vermilion.</p> <p>20 So when I listed this on the planner, it was</p> <p>21 more for me to know I visited with Homeworks, I</p> <p>22 visited with Erwin. It wasn't that it was always</p> <p>23 at a specific location. Homeworks met me at the</p> <p>24 project or at his office sometimes, it was very</p> <p>25 large.</p>
<p style="text-align: right;">Page 141</p> <p>1 I actually had to contact Cindy, who was at a</p> <p>2 baseball game for one of her grandchildren</p> <p>3 because I couldn't log into Active's E-term</p> <p>4 system some from my house, therefore, I would</p> <p>5 have had to try to do this all through the work</p> <p>6 hours and not do the bid properly and/or take</p> <p>7 care of the customers in the showroom properly.</p> <p>8 <b>Q. So when I'm looking at Defendant's Exhibit 10,</b></p> <p>9 <b>the overtime you have listed here, the entry for</b></p> <p>10 <b>7/8 -- I assume that's supposed to be 2014,</b></p> <p>11 <b>rather than 2011?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. Erwin Catawba Island project visit. That would</b></p> <p>14 <b>have been related to this one, correct?</b></p> <p>15 A. Correct.</p> <p>16 <b>Q. And then as I go down, there's a -- on 7/15,</b></p> <p>17 <b>there's "Gorey Present Avon, Erwin Pricing."</b></p> <p>18 <b>Would that have been related to it?</b></p> <p>19 A. Correct.</p> <p>20 <b>Q. Would any of these others on this first page have</b></p> <p>21 <b>been related to that?</b></p> <p>22 A. There are none labeled related to that. There</p> <p>23 were a lot of hours that weren't -- how do I</p> <p>24 explain this correctly -- that weren't</p> <p>25 appointments at the project, that were work hours</p>	<p style="text-align: right;">Page 143</p> <p>1 <b>Q. So when you would go to the project site or when</b></p> <p>2 <b>you would go to the contractor's office, what</b></p> <p>3 <b>were you doing?</b></p> <p>4 A. Answering questions that they needed to be</p> <p>5 answered. It could vary on what part of the</p> <p>6 process they were in.</p> <p>7 <b>Q. What type of questions did they have for you,</b></p> <p>8 <b>that you were answering? I'm not asking for any</b></p> <p>9 <b>specific question.</b></p> <p>10 A. Can you meet us out there with the plumber, we</p> <p>11 wanted to make sure that the shower head</p> <p>12 locations are where they're supposed to be.</p> <p>13 Can you meet us out there and go through the</p> <p>14 two pallets of plumbing trims and separate them,</p> <p>15 by room, with us and make sure that the plumber</p> <p>16 does a walk-through and understands what trims go</p> <p>17 where.</p> <p>18 It was always related to -- or can you meet</p> <p>19 the carpenter with the kitchen prints, he wants</p> <p>20 to do an on-site walk-through verbally, as far as</p> <p>21 the kitchen cabinet installation would go.</p> <p>22 <b>Q. So looking at your payroll, it looks like on</b></p> <p>23 <b>12/11, you turned in, or the 12/11 payroll, you</b></p> <p>24 <b>had \$303 in overtime earnings. Then for the</b></p> <p>25 <b>12/26, you didn't have any.</b></p>



<p style="text-align: right;">Page 144</p> <p>1       <b>The 1/8/15, you didn't have any.</b>  2       <b>Then the 1/22/15, you had \$180.</b>  3       <b>And when I look back through this, that seems</b>  4 <b>to not coincide with, sort of hours that you have</b>  5 <b>in here where, you know, you have hours in</b>  6 <b>between those.</b>  7       <b>For example, you didn't turn anything in for</b>  8 <b>the 1/8 payroll and you have time here on 1/7 and</b>  9 <b>1/8.</b>  10       <b>And then on 1/22, you know, you have some</b>  11 <b>time here that you did turn in and then the next</b>  12 <b>one, 2/5 here, there's time after the 1/22 and</b>  13 <b>before the 2/5 that you're claiming here.</b>  14       <b>How were you deciding when to turn overtime</b>  15 <b>in and when not to?</b>  16 A. Throughout my employment I was told by several  17 different people that I was not eligible for  18 overtime and to stop keeping track of it and then  19 I would get tired of that and go back around and  20 try to turn it in. And I was told we don't pay  21 over time, we will pay extra monies in the form  22 of bonuses when extra work is performed.  23       At times there is no overtime category on my  24 paychecks.  25       At times I was paid bonus hours for the time</p>	<p style="text-align: right;">Page 146</p> <p>1       back off; I needed my job.  2 <b>Q. Well, there were no times you ever turned in any</b>  3 <b>of these slips that you didn't get paid for them,</b>  4 <b>the time you turned in, correct?</b>  5 A. I can't say that for sure.  6 <b>Q. Okay. Have you gone back and looked at that?</b>  7 A. No, I have not.  8 <b>Q. Do you ever remember having one of these turned</b>  9 <b>in and not being paid the amount that you had</b>  10 <b>requested?</b>  11 A. I could not say specifically that I researched  12 that.  13 <b>Q. But as we sit here --</b>  14 A. I know I turned in mileage that I didn't get paid  15 for.  16 <b>Q. But with respect to extra hours, as we sit here</b>  17 <b>today, do you recall any occasions where you</b>  18 <b>turned in extra hours and you weren't paid for</b>  19 <b>them?</b>  20 A. I do know that I questioned a deduction on my  21 paycheck, as related to the amount of time I had  22 worked that week versus what the salary amount  23 would have been.  24       I cannot say I specifically remember looking  25 at the overtime request I made and versus what</p>
<p style="text-align: right;">Page 145</p> <p>1       I painted the showroom, on my own time, and other  2 showroom activity that was to improve the square  3 footage of the showroom and that did not have  4 interactions to do with clients.  5       Also bonus hours -- or bonus monies -- on my  6 paycheck were shown for achievement goals that  7 were made, I believe, possibly by the branches.  8       A \$500 bonus, at one point, on my payroll, is  9 related to a goal achievement for either the  10 company or our branch, I don't remember exactly  11 what that is.  12 <b>Q. Well, these sheets that you turned in, these</b>  13 <b>would be for where you were requesting overtime,</b>  14 <b>correct?</b>  15 A. That's correct.  16 <b>Q. How would you decide when you were going to turn</b>  17 <b>in a sheet and when you weren't going to turn in</b>  18 <b>a sheet?</b>  19 A. I would ask why I wasn't getting paid. I would  20 be told that we don't pay overtime, therefore,  21 you would not turn it in.  22       Then I would get tired of it and I would turn  23 it in, and sometimes it would be okay, sometimes  24 the temperature of people's tempers or their  25 reactions would get very agitated, so you would</p>	<p style="text-align: right;">Page 147</p> <p>1       was paid on the paycheck that following week.  2       It was a constant discussion.  3 <b>Q. And I understand it was a constant discussion,</b>  4 <b>what I'm asking you specifically is, do you</b>  5 <b>recall ever turning in one of those sheets and</b>  6 <b>saying, Look, I have three overtime hours and not</b>  7 <b>getting, for example, those three overtime hours?</b>  8 A. As it relates to the three overtime hours or the  9 supposed sheets, the sheets that I turned in, I  10 did not go back and check those sheets against my  11 payroll stubs.  12       But I did check pay checks that vacation time  13 was taken out, when I was actually working that  14 day, and other things.  15       But, no, I did not go back and say This sheet  16 said I had 2.5 hours of overtime and I didn't get  17 paid.  18 <b>Q. And I'm not asking you to identify them</b>  19 <b>specifically or whether you looked back at your</b>  20 <b>payroll slips during this case.</b>  21       I'm asking you, do you remember an occasion  22 when -- and even if you can't specifically  23 identify it -- do you remember thinking, oh, I  24 turned in these hours and they didn't pay me for  25 them?</p>

<p style="text-align: right;">Page 148</p> <p>1 A. Yes. I do remember at points going, I had this  2 overtime, I'm not getting paid for.  3 And I believe there may have been a couple of  4 occasions where sheets were turned in that  5 related to that.  6 <b>Q. Okay. But you haven't identified which those  7 sheets are?</b>  8 A. That would be correct.  9 <b>Q. Okay. So I'm looking back, this is Exhibit 7  10 that we had talked about at your last deposition.</b>  11 <b>This was an e-mail from Cindy Barber dated  12 June 8th, 2015, she had said "I will need all OT  13 reports before Monday morning. Payroll will be  14 done first thing Monday."</b>  15 <b>And this was sent to all the showroom people  16 and the subject was OT.</b>  17 <b>So I'm looking down here and in the week  18 before that, you have listed time on 6/3 and 6/5.</b>  19 <b>You actually have time on this Catawba project,  20 on 6/8 and more time on 6/9 and 6/13.</b>  21 <b>I guess my question is: Having received this  22 e-mail, which seems to explicitly say the  23 showroom people, you know, will be paid OT if  24 they turn in these OT reports; why didn't you  25 turn in this overtime here in the early part of</b></p>	<p style="text-align: right;">Page 150</p> <p>1 discouraged from turning it in, regardless of  2 what that e-mail says.  3 <b>Q. Who would have discouraged you from turning in  4 overtime?</b>  5 A. When we got our 2015 compensation goals setting  6 things that we had to sign, it said all overtime  7 will be paid 1.5 times an hourly rate.  8 And I questioned Bryce about it and called  9 him and the very next day, Cindy and Bryce both  10 came in and I was told that that was on there but  11 it did not necessarily apply.  12 <b>Q. And they both came out to --</b>  13 A. To Avon, the following day.  14 <b>Q. -- Avon, to tell you that?</b>  15 <b>So that would have been -- I think these had  16 been marked as Plaintiff's Exhibits 16 and 13, I  17 want to make sure we're talking about the same  18 thing.</b>  19 <b>This is the one for 15. It looks like you  20 would have signed it on 2/16/15. Is this the one  21 we're talking about?</b>  22 A. Yes.  23 <b>Q. Okay. And then the one for 16 isn't signed or  24 dated.</b>  25 <b>Do you recall getting that one in 16 as well?</b></p>
<p style="text-align: right;">Page 149</p> <p>1 <b>June around the time of these bills?</b>  2 A. Do you mind if I look at that?  3 <b>Q. Yes. Absolutely.</b>  4 A. This obviously was sent out on a Monday at 8:37  5 in the morning.  6 I don't work on Mondays, so I would have  7 gotten it on Tuesday and it says Payroll will be  8 done first thing on Monday.  9 <b>Q. Okay.</b>  10 A. So it may be -- and I'm going to say "may" only  11 because -- well, the timing is, I wasn't there  12 when the e-mail went out on the Monday and the  13 payroll will be done first thing on Mondays.  14 <b>Q. So you would have gotten this though, when you  15 got to work on Tuesday, though, correct?</b>  16 A. Yes.  17 <b>Q. And so let's assume you felt it was too late to  18 turn in time for the earlier; you have time  19 listed here on Exhibit 10, for 6/9 and 6/13 and  20 6/15, 6/16, 6/18, 6/19, those are all in the two  21 weeks immediately after this; why didn't you turn  22 any of that time in for the next couple of  23 payrolls?</b>  24 A. I can't answer that specifically why.  25 When I would ask about overtime, I was</p>	<p style="text-align: right;">Page 151</p> <p>1 A. Yes, I do.  2 <b>Q. Was it done around the same time, in February?</b>  3 A. I can't say for sure, but I would assume  4 everything was done in the first quarter.  5 <b>Q. It would have been within a month, plus or minus,  6 of February?</b>  7 A. That would be a safe assumption.  8 <b>Q. Okay. So you signed this on 2/16/15. You're  9 saying sometime, was it the very next day or so  10 forth that Bryce and Cindy came in to tell you  11 that, though that's in here, they weren't  12 actually going to pay that overtime?</b>  13 A. I believe I received that through an intercompany  14 memo, mail system.  15 I know that when I read it, I called Bryce  16 and said, something to the effect of -- See, it  17 even says on here, overtime was paid over 40  18 hours.  19 And he was, I'll get back to you.  20 The very next day, whether it's the 17th,  21 16th or the 15th, they came to Avon and I was  22 told that, Yes, that's on there, but that does  23 not necessarily apply.  24 <b>Q. Okay.</b>  25 A. I'm exempt.</p>

<p style="text-align: right;">Page 152</p> <p>1 <b>Q. So it would have been within a few days of this</b>  2 <b>2/16/15 date where you signed it?</b>  3 A. That's a reasonable assumption.  4 <b>Q. Okay. So after they told you that, despite the</b>  5 <b>fact we put that in writing there, we don't</b>  6 <b>actually pay that; why did you continue to</b>  7 <b>periodically turn in requests for overtime?</b>  8 A. I would get to a point where I was disgusted  9 about not getting paid my overtime and I would  10 turn it in and see what happened.  11 At times I would get that some of it was  12 covered as comp. time, I still don't know what  13 that means.  14 And at times it seemed like it would go  15 through and then at times I would be told you're  16 not eligible for overtime, et cetera, et cetera.  17 Or we will change your schedule and you will work  18 Monday through Friday and Saturdays will be  19 overtime every week.  20 <b>Q. I'm at -- this was on Page 2 of this on 3/31/15,</b>  21 <b>you have "Slider out." S-l-y-d-e-r.</b>  22 <b>Do you recall what that project was?</b>  23 A. Yes. It was a large remodel of a master suite,  24 bathroom specific.  25 <b>Q. Did you do any work through DuPont Design or was</b></p>	<p style="text-align: right;">Page 154</p> <p>1 A. Only Active Plumbing's work is on there.  2 <b>Q. I want to ask about a couple of these listed on</b>  3 <b>here.</b>  4 <b>On the first page, on 7/22/14, there's</b>  5 <b>something called the Braddock Presentation.</b>  6 <b>Do you recall what that was?</b>  7 A. I don't.  8 <b>Q. How about down a few, on 7/30, there's Ford,</b>  9 <b>Fairview Park. Do you remember that one?</b>  10 A. I don't. There were several Fords that I worked  11 with during the course of my employment there, so  12 specifically, no.  13 <b>Q. Then 8/9. Patton. I'm assuming that's Olmsted</b>  14 <b>Falls?</b>  15 A. That is Olmsted Falls, and I cannot specifically  16 give details of that.  17 <b>Q. That's fine.</b>  18 <b>Next one, Belak in Chagrin Falls. Do you</b>  19 <b>remember that one?</b>  20 A. I do remember that one, yes.  21 <b>Q. What was that project?</b>  22 A. One of our clients -- I believe, it was  23 Mr. Rudder, possibly, asked me to come out to  24 these folks' home and look at a redesign for  25 their master bathroom suite.</p>
<p style="text-align: right;">Page 153</p> <p>1 <b>this purely an Active Plumbing project?</b>  2 A. Purely Active.  3 <b>Q. There's something listed on here, Costillo?</b>  4 A. Yes.  5 <b>Q. What was that?</b>  6 A. Costillo was a project for a bathroom for their  7 main family bathroom.  8 <b>Q. Okay.</b>  9 A. It was a remodel. The homeowner was doing his  10 own labor, so they bought their products  11 directly.  12 <b>Q. And did do any design work for them through</b>  13 <b>DuPont Design?</b>  14 A. After their bathroom was done, they asked me to  15 design a design for their daughter's bathroom, or  16 bedroom, as in paint colors and things like that.  17 She was special needs and she liked me and after  18 the bathroom was done, they asked if I would do  19 that.  20 <b>Q. Okay. Was that while you were still working at</b>  21 <b>Active Plumbing or after?</b>  22 A. No, I was still there.  23 <b>Q. Do you know whether any of the appointments you</b>  24 <b>have listed on here related to that, as opposed</b>  25 <b>to the Active Plumbing?</b></p>	<p style="text-align: right;">Page 155</p> <p>1 <b>Q. Okay.</b>  2 A. And I remember because there was some -- I was  3 curious as to why it wasn't going through one of  4 the branches closer to that location since I was  5 the most west branch and the plumber wanted it to  6 go through me and go through that branch for the  7 design. So that's why I remember that one.  8 <b>Q. How about Golman?</b>  9 A. Yes. I do remember that.  10 <b>Q. What was that one?</b>  11 A. I believe that was a kitchen remodel in Huron and  12 I believe -- if it's the right Golman -- that  13 Huttman, Mr. Huttman was the contractor that was  14 Active's client there.  15 <b>Q. Harp?</b>  16 A. I don't remember details of that one.  17 <b>Q. 10/4, Phillips.</b>  18 A. I believe that the Phillips -- if this is the  19 right Phillips -- were looking for a design for  20 an office suite for cabinets. I can't say that  21 100 percent.  22 <b>Q. Do you know whether we ever did the project with</b>  23 <b>them?</b>  24 A. I don't recall.  25 <b>Q. Parrish on 11/7?</b></p>

<p style="text-align: right;">Page 156</p> <p>1 A. I don't remember details of that one.</p> <p>2 <b>Q. Klepper on 1/7.</b></p> <p>3 A. I don't remember the details of that.</p> <p>4 <b>Q. Jones on 1/8.</b></p> <p>5 A. I don't remember the details.</p> <p>6 <b>Q. Lucas on 1/24.</b></p> <p>7 A. I do not remember the details.</p> <p>8 <b>Q. Prumo on 1/27.</b></p> <p>9 A. I do not remember the details.</p> <p>10 <b>Q. Carol on 2/12.</b></p> <p>11 A. I don't remember the details.</p> <p>12 <b>Q. Mauk on 3/9.</b></p> <p>13 A. I do not positively remember the details of that.</p> <p>14 <b>Q. Would it have been something that was possibly</b></p> <p>15 <b>done through a contractor?</b></p> <p>16 A. Most of these were.</p> <p>17 <b>Q. Okay.</b></p> <p>18 A. Because if I had, like, the client's name slash</p> <p>19 the contractor, bells would go off.</p> <p>20 <b>Q. Right.</b></p> <p>21 A. I believe this was in Independence. I believe</p> <p>22 that job did get done as well, but I can't say, I</p> <p>23 can swear to it.</p> <p>24 <b>Q. Mazze. There's a couple on there.</b></p> <p>25 A. I'm not 100 percent sure, but I believe a</p>	<p style="text-align: right;">Page 158</p> <p>1 entire house, replacing flooring and whatever.</p> <p>2 I don't know if that project got done. That</p> <p>3 was a homeowner that came in directly, not</p> <p>4 through a contractor.</p> <p>5 <b>Q. Royale?</b></p> <p>6 A. I can't say I remember details of that one</p> <p>7 specifically.</p> <p>8 <b>Q. Smelko.</b></p> <p>9 A. Yes. That was a bathroom remodel brought in</p> <p>10 through Paul Cedar Construction and that project</p> <p>11 did get done.</p> <p>12 <b>Q. Smith.</b></p> <p>13 A. Smith?</p> <p>14 <b>Q. I'm looking at 3/6.</b></p> <p>15 <b>No. I'm sorry, I must have the wrong date.</b></p> <p>16 <b>Oh, it's 8/6.</b></p> <p>17 A. I can't tell you that I know the details of that.</p> <p>18 <b>Q. There's a couple in September and October, a</b></p> <p>19 <b>Stock.</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. What are those?</b></p> <p>22 A. Mr. and Mrs. Stock was a client that lived in</p> <p>23 Westlake. They did a very large scale glamour</p> <p>24 bathroom. They had brought their own contractors</p> <p>25 in.</p>
<p style="text-align: right;">Page 157</p> <p>1 contractor brought this person to us and I'm not</p> <p>2 sure if he did that project or not. He was newer</p> <p>3 to me, so I'm not sure what happened to him.</p> <p>4 <b>Q. Do you remember who the contractor was?</b></p> <p>5 A. Oh, I knew you were going to ask. Tom was his</p> <p>6 first name, if I'm 100 percent correct on this.</p> <p>7 <b>Q. There are a couple more Mauk.</b></p> <p>8 <b>Did I ask you about that one?</b></p> <p>9 A. Yeah, I'm pretty sure Rick, the plumber, that was</p> <p>10 his client and it was a full bathroom redesign</p> <p>11 and I'm positive that was a project in</p> <p>12 Independence.</p> <p>13 <b>Q. Legleise?</b></p> <p>14 A. Legleise?</p> <p>15 <b>Q. Yeah.</b></p> <p>16 A. That was a walk-in client that was doing their</p> <p>17 own work and it was a decent-sized kitchen</p> <p>18 remodel.</p> <p>19 <b>Q. Did it get done?</b></p> <p>20 A. Yes. And I believe it was maybe in like Lorain</p> <p>21 area.</p> <p>22 <b>Q. Barranchinni.</b></p> <p>23 A. Yes. Barranchinni I remember to be a residential</p> <p>24 walk-in client that lived in the Westlake area</p> <p>25 that was wanting to systematically go through the</p>	<p style="text-align: right;">Page 159</p> <p>1 They came in as residential clients and I</p> <p>2 sold directly to them; did their design work and</p> <p>3 then met with their contractors that they brought</p> <p>4 to the table and went over the plan and the</p> <p>5 project process with them.</p> <p>6 We sold them everything in that room.</p> <p>7 <b>Q. Byers. 11/27.</b></p> <p>8 A. I can't say I remember the details of that.</p> <p>9 <b>Q. 12/22, Wochna.</b></p> <p>10 A. I do not remember the details of that.</p> <p>11 <b>Q. On 12/26 it's listed as showroom.</b></p> <p>12 <b>Would that have been time you spent in the</b></p> <p>13 <b>showroom?</b></p> <p>14 A. I'm going to assume that I was in the showroom</p> <p>15 working.</p> <p>16 <b>Q. As opposed to a customer named showroom?</b></p> <p>17 A. Correct. Yes.</p> <p>18 <b>Q. You never know.</b></p> <p>19 A. Right.</p> <p>20 <b>Q. 1/15/16, Roxanne. I think there's another one on</b></p> <p>21 <b>1/13.</b></p> <p>22 A. Yes. That was a customer that lived in Avon Lake</p> <p>23 and she was somewhat of a do-it yourselfer and</p> <p>24 was looking for a redesign for her master suite</p> <p>25 and I believe, unfortunately, she found someone</p>

<p style="text-align: right;">Page 160</p> <p>1 to make her cabinetry for her, versus buying it  2 through us. I believe she had someone come from  3 southern Ohio and make them, with the best  4 certainty, that I can say.  5 <b>Q. On 1/9, Bruegger.</b>  6 A. That was another design for -- actually Roxanne  7 and Bruegger are the same.  8 A readjustment design, I really thought this  9 lady was going to buy all her stuff, I was  10 shocked that she didn't.  11 I can't say for sure, she may have bought  12 some facets from us, I don't remember any every  13 details. That was a design, redesign, go back,  14 check measurement, redesign kind of thing.  15 <b>Q. On 1/18 there were four different ones listed.</b>  16 A. Yes.  17 <b>Q. Are those all four different ones or are they</b>  18 <b>related to each other?</b>  19 A. Those are the four locations I went to.  20 <b>Q. So each of these is a separate project?</b>  21 A. Solid Source is the distributor or a vendor of  22 ours. So I may have had to go pick up samples or  23 something, that's what I do when I go to one of  24 those.  25 Design Surfaces is a vendor of ours as well</p>	<p style="text-align: right;">Page 162</p> <p>1 A. I believe -- no, I don't. I can't say  2 specifically I remember that.  3 <b>Q. Next one, Weilnau. I don't even know how to --</b>  4 A. Weilnau.  5 These folks lived somewhere, I believe, in  6 Avon and they wanted their kitchen updated with  7 new countertops, I'm almost positive.  8 And then also after that, they had asked me  9 to look at their half bath off their entry to go  10 forward with that.  11 I was not so employed at the half bath,  12 although they had liked the project, I was let go  13 during that process.  14 But the kitchen, new quartz, I believe they  15 were quartz tops, and I believe they bought their  16 backsplash tile, too.  17 That project did go forward. That was  18 brought in by Rick Hammond, for me to go see  19 those folks.  20 <b>Q. How about St. Jude?</b>  21 A. St. Jude, we were encouraged to bring in more  22 business, builder business and obviously spread  23 our name so that we would grow, which is logical.  24 I had met the contractor, I think it's  25 Cleveland Home Builders -- I can't remember their</p>
<p style="text-align: right;">Page 161</p> <p>1 that we supply and source tile from. Sometimes I  2 actually had to go pick up client product there  3 if our guys couldn't get it.  4 Gorecki was a client and Stock was a client.  5 <b>Q. Right. We had talked about Stock.</b>  6 <b>1/27, Biscup. What was that?</b>  7 A. Yes. Biscup was a client brought to me through  8 Paul Cedar Construction.  9 She had a very large master suite, bedroom  10 and bathroom area, that she wanted redesigned.  11 And she actually wound up taking the project  12 which was a nice, nice budgeted project and I was  13 let go in the course of that, so Active contacted  14 her, refunded her money and didn't want to keep  15 on with that work.  16 <b>Q. 2/17, Veith.</b>  17 A. Veith.  18 <b>Q. Veith.</b>  19 A. The name is super familiar, but I cannot tell you  20 the details of it.  21 <b>Q. 3/19, Bromerly?</b>  22 A. The name is super familiar. Again, but I can't  23 sit here and recall exactly what I did with them  24 and where they lived and all of that stuff.  25 <b>Q. 4/7, Hynuiak?</b></p>	<p style="text-align: right;">Page 163</p> <p>1 name -- but they were building the St. Jude dream  2 home in Avon.  3 And I asked him if we could be involved in it  4 and he asked me to come out and go through the  5 place and look at what their needs were and at  6 that point, we had a shower door company -- with  7 our company -- that supplied us, that was very,  8 very, very anxious and willing to participate in  9 this charity thing and I was trying to build a  10 relationship with them, so that's the St. Jude.  11 <b>Q. How about McConnell?</b>  12 A. McConnell is a -- was a new construction project  13 brought in by, I believe, Jim Wilson, a plumber.  14 They were building a log cabin home and  15 needed complete design work for their plumbing,  16 their shower layouts, footprints, everything.  17 They did buy everything through Active. They  18 already had somebody making their cabinets, I  19 tried to get that business.  20 And then they asked me separately if I would  21 consult on things, like the size of the chinking,  22 the size of the logs that were being milled to  23 make it, lighting, paint colors and things of  24 that nature; that stuff was done outside of  25 Active.</p>




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1 I think McConnell wound up spending quite a  
2 bit of money actually. They were a nice customer  
3 with Active.  
4 MR. SELBY: Give me a few minutes  
5 with Jo and Cindy. I think we're close.  
6 - - - -  
7 (Off the record.)  
8 - - - -  
9 MR. SELBY: I don't have any  
10 further questions.  
11 MS. CHRISTY: She'll read.  
12 - - - -  
13 (Deposition concluded at 12:17 p.m.)  
14 (Signature Not Waived.)  
15  
16  
17  
18 KRISTINE A. DuPONT  
19  
20  
21  
22  
23  
24  
25

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1 DEPOSITION ERRATA SHEET  
2  
3 Case Caption: Kristine DuPont  
4 vs. Active Plumbing Supply Co.  
5  
6 DECLARATION UNDER PENALTY OF PERJURY  
7 I declare under penalty of perjury  
8 that I have read the entire transcript of  
9 my Deposition taken in the captioned matter  
10 or the same has been read to me, and  
11 the same is true and accurate, save and  
12 except for changes and/or corrections, if  
13 any, as indicated by me on the DEPOSITION  
14 ERRATA SHEET hereof, with the understanding  
15 that I offer these changes as if still under  
16 oath.  
17 Signed on the \_\_\_\_\_ day of  
18 \_\_\_\_\_, 20\_\_\_\_.  
19  
20  
21 KRISTINE A. DuPONT  
22  
23  
24  
25

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1  
2 CERTIFICATE  
3 The State of Ohio, ) SS:  
4 County of Lake.)  
5  
6 I, Lynn A. Konitsky, RMR, CRR, Notary  
7 Public within and for the State of Ohio, duly  
8 commissioned and qualified to administer oaths  
9 and to take and certify depositions, do hereby  
10 certify that the above-named witness was by me  
11 first duly sworn to testify the truth, the whole  
12 truth, and nothing but the truth; that the  
13 testimony as above-set forth was reduced to  
14 writing by me by means of stenotypy, and was  
15 later transcribed into typewriting under my  
16 direction; that this is a true record of the  
17 testimony given by the witness; that said  
18 deposition was taken at the aforementioned time,  
19 date and place, pursuant to notice or  
20 stipulations of counsel.  
21 I further certify I am not a relative or  
22 employee or attorney of any of the parties,  
23 or a relative or employee of such attorney  
24 or financially interested in this action;  
25 that I am not under a contract as defined in  
Civil Rule 28(D).  
IN WITNESS WHEREOF, I have hereunto set my  
hand and seal of office, at Cleveland, Ohio, this  
1st day of August, A.D. 2017.  
  
Lynn A. Konitsky, Notary Public, State of Ohio  
Waters Reporting Services  
38385 Wood Road, Willoughby, Ohio 44094  
My commission expires February 8, 2020

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2 Page No.\_\_\_\_Line No.\_\_\_\_Change to:\_\_\_\_\_  
3 \_\_\_\_\_  
4 Reason for change:\_\_\_\_\_  
5 Page No.\_\_\_\_Line No.\_\_\_\_Change to:\_\_\_\_\_  
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25 KRISTINE A. DuPONT

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24 SIGNATURE:\_\_\_\_\_DATE:\_\_\_\_\_

25 KRISTINE A. DuPONT

7/14/2017

Kristine A. DuPont

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